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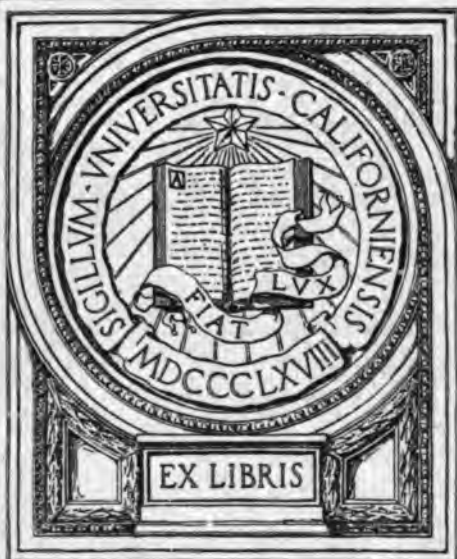
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The **Election Laws**

of the **STATE**
of **OHIO**

**And of the United
States of America**



**So Far as They Relate to
the Conduct of Elections
and the Duties of Officers
in Connection Therewith**

ANNOTATED

Compiled by
THE SECRETARY OF STATE
1907



THE ELECTION LAWS

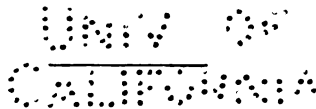
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COLUMBUS, OHIO:
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Election Laws of the United States.

CITIZENSHIP.

SECTION 1992. All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

Who are citizens.

SEC. 1993. All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

Children of citizens born abroad.

SEC. 1994. Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.

Married women.

SEC. 1995. All persons born in the district of country formerly known as the territory of Oregon, and subject to the jurisdiction of the United States on the 18th [of] May, 1872, are citizens in the same manner as if born elsewhere in the United States.

Persons born in Oregon.

SEC. 1996. All persons who deserted the military or naval service of the United States, and did not return thereto or report themselves to a provost marshal within sixty days after the issuance of the proclamation by the President, dated the 11th day of March, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof.

Forfeiture of citizenship.

SEC. 1997. No soldier or sailor, however, who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained quit his command or refused to serve after that date, shall be held to be a deserter from the army or navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred, under the preceding section, by the loss of citizenship and of the right to hold office in consequence of his desertion.

Certain soldiers and sailors exempted from forfeiture.

Avoiding the draft.

SEC. 1998. Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to all the penalties and forfeitures of section nineteen hundred and ninety-six.

Right of expatriation declared.

SEC. 1999. Whereas, the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and, whereas, in the recognition of this principle this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas, it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed; therefore, any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the republic.

Protection of naturalized citizens in foreign states.

SEC. 2000. All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this government the same protection of persons and property which is accorded to native born citizens.

THE ELECTIVE FRANCHISE.

Interference by army or naval officers.

SEC. 2003. No officer of the army or navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any state, or in any manner interfere with the freedom of any election in any state, or with the exercise of the free right of suffrage in any state.

Race, color or previous condition not to affect the right to vote.

SEC. 2004. All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any state, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any state or territory, or by or under its authority, to the contrary notwithstanding.

NATURALIZATION.

Aliens, how naturalized.

SEC. 2165. An alien may be admitted to become a citizen of the United States in the following manner, and not otherwise:

First. He shall declare on oath, before a circuit or district court of the United States, or a district or supreme court of the territories, or a court of record of any of the states having common law jurisdiction, and a seal and clerk, two years, at least, prior to his admission, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and, particularly, by name, to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject.

Declaration of intention.

Second. He shall, at the time of his application to be admitted, declare, on oath, before some one of the courts above specified, that he will support the constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty; and, particularly, by name, to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

Oath to support the constitution of the United States.

Third. It shall be made to appear to the satisfaction of the court admitting such alien that he has resided within the United States five years at least, and within the state or territory where such court is at the time held, one year at least; and that during that time he has behaved as a man of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same; but the oath of the applicant shall in no case be allowed to prove his residence.

Residence in United States, or states, and good moral character.

Fourth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

Titles of nobility to be renounced.

Fifth. Any alien who was residing within the limits and under the jurisdiction of the United States before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may be admitted to become a citizen, on due proof made to some one of the courts above specified, that he has resided two years, at least, within the jurisdiction of the United States, and one year, at least, immediately preceding his application, within the state or territory where such court is at the time held; and on his declaring on oath that he will support the constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and, particularly, by name, to the prince, potentate, state, or sovereignty whereof he was before a citizen or subject; and, also on its appearing to the

Persons residing in the United States before January 29, 1795.

satisfaction of the court, that during such term of two years he has behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same; and where the alien, applying for admission to citizenship, has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his, moreover, making in the court an express renunciation of his title or order of nobility. All of the proceedings, required in this condition to be performed in the court, shall be recorded by the clerk thereof.

Persons residing between June 18, 1798, and June 18, 1812; declaration for naturalization, made.

Sixth. Any alien who was residing within the limits and under the jurisdiction of the United States, between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States without having made any previous declaration of his intention to become such; but whenever any person, without a certificate of such declaration of intention, makes application to be admitted a citizen, it must be proved to the satisfaction of the court, that the applicant was residing within the limits and under the jurisdiction of the United States before the eighteenth of June, one thousand eight hundred and twelve, and has continued to reside within the same; and the residence of the applicant within the limits and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application must be proved by the oath of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place where the applicant has resided for at least five years, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States. [Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the declaration of intention to become a citizen of the United States, required by section two thousand one hundred and sixty-five of the Revised Statutes of the United States, may be made by an alien before the clerk of any of the courts named in said section two thousand one hundred and sixty-five; and all such declarations heretofore made before any such clerk are hereby declared as legal and valid as if made before one of the courts named in said action.]

The act of a court of record on admitting a foreign born person to citizenship is conclusive on his right to vote, and it cannot be impeached so as to deprive him of that right by showing that the admission was, in fact, premature.

Esker v. McCoy, 5 O. D. (Reprint) 694.

Aliens honorably discharged from military service.

Sec. 2166. Any alien, of the age of twenty-one years and upward, who has enlisted, or may enlist, in the armies of the United States, either the regular or the volunteer

forces, and has been, or may be hereinafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such a citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by competent proof of such person's having been honorably discharged from the service of the United States.

SEC. 2167. Any alien, being under the age of twenty-one years, who has resided in the United States three years next preceding his arriving at that age, and who has continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he has resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of section twenty-one hundred and sixty-five; but such alien shall make the declaration required therein at the time of his admission; and shall further declare, on oath, and prove to the satisfaction of the court, that, for two years next preceding, it has been his bona fide intention to become a citizen of the United States; and he shall in all other respects comply with the laws in regard to naturalization.

Minor residents.

SEC. 2168. When any alien, who has complied with the first condition specified in section twenty-one hundred and sixty-five, dies before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oaths prescribed by law.

Widow and children of declarants.

SEC. 2169. The provisions of this title shall apply to aliens [being free white persons, and to aliens] of African nativity and to persons of African descent.

Aliens of African nativity and descent.

SEC. 2170. No alien shall be admitted to become a citizen who has not for the continued term of five years next preceding his admission resided within the United States.

Residence of five years in the United States.

SEC. 2171. No alien who is a native citizen or subject or a denizen of any country, state, or sovereignty with which the United States are at war, at the time of his application, shall be then admitted to become a citizen of the United States; but persons resident within the United States, or the territories thereof, on the eighteenth day of June, in the year one thousand eight hundred and twelve, who had before that day made a declaration, according to law, of their intention to become citizens of the United States, or who were on that day entitled to become citizens without making such declaration, may be admitted to become citizens thereof, notwithstanding they were alien enemies at the time and in

Alien enemies not admitted.

the manner prescribed by the laws heretofore passed on that subject; nor shall anything herein contained be taken or construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.

Children of persons naturalized under certain laws to be citizens.

SEC. 2172. The children of persons who have been fully naturalized under any law of the United States, or who, previous to the passing of any law on that subject, by the government of the United States, may have become citizens of any one of the states, under the laws thereof, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof; but no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain during the Revolutionary War, shall be admitted to become a citizen without the consent of the legislature of the state in which such person was proscribed.

Naturalization of seamen.

SEC. 2174. Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States anything to the contrary in any act of congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen.

Taking false oath in naturalization.

SEC. 5395. In all cases where any oath or affidavit is made or taken under or by virtue of any law relating to the naturalization of aliens, or in any proceedings under such laws, any person taking or making such oath or affidavit who knowingly swears falsely, shall be punished by imprisonment not more than five years, nor less than one year, and by a fine of not more than one thousand dollars.

False personation, etc., in procuring naturalization.

SEC. 5424. Every person applying to be admitted a citizen, or appearing as a witness for any such person, who knowingly personates any other person than himself, or

falsely appears in the name of a deceased person, or in an assumed or fictitious name, or falsely makes, forges, or counterfeits any oath, notice, affidavit, certificate, order, record, signature, or other instrument, paper, or proceeding required or authorized by any law relating to or providing for the naturalization of aliens; or who utters, sells, disposes of, or uses as true or genuine, or for any unlawful purpose, any false, forged, antedated, or counterfeit oath, notice, certificate, order, record, signature, instrument, paper, or proceeding above specified; or sells or disposes of to any person, other than the person for whom it was originally issued, any certificate of citizenship, or certificate showing any person to be admitted a citizen, shall be punished by imprisonment at hard labor not less than one year, nor more than five years, or by a fine of not less than three hundred nor more than one thousand dollars, or by both such fine and imprisonment.

SEC. 5425. Every person who uses, or attempts to use, or aids, or assists, or participates in the use of any certificate of citizenship, knowing the same to be forged, or counterfeit, or antedated, or knowing the same to have been procured by fraud or otherwise unlawfully obtained; or who, without lawful excuse, knowingly is possessed of any false, forged, antedated, or counterfeit certificate of citizenship, purporting to have been issued under the provisions of any law of the United States relating to naturalization, knowing such certificate to be false, forged, antedated, or counterfeit, with intent unlawfully to use the same; or obtains, accepts, or receives any certificate of citizenship known to such person to have been procured by fraud or by the use of any false name, or by means of any false statement made with intent to procure, or to aid in procuring, the issue of such certificate, or known to such person to be fraudulently altered or antedated; and every person who has been or may be admitted to be a citizen who, on oath or by affidavit, knowingly denies that he has been so admitted, with intent to evade or avoid any duty or liability imposed or required by law, shall be imprisoned at hard labor not less than one year nor more than five years, or be fined not less than three hundred dollars nor more than one thousand dollars, or both such punishments may be imposed.

Using false certificate of citizenship, etc.

Sec. 5426. Every person who in any manner uses for the purpose of registering as a voter, or as evidence of a right to vote, or otherwise, unlawfully, any order, certificate of citizenship, or certificate, judgment, or exemplification, showing any person to be admitted to be a citizen, whether heretofore or hereafter issued or made, knowing that such order or certificate, judgment, or exemplification has been unlawfully issued or made; and every person who unlawfully uses, or attempts to use, any such order or certificate, issued to or in the name of any other person, or in a fictitious name, or the name of a deceased person, shall be punished by imprisonment at hard labor not less than one year nor more

Using false certificate, etc., as evidence of a right to vote.

than five years, or by a fine of not less than three hundred nor more than one thousand dollars, or by both such fine and imprisonment.

Aiding or abetting violation of preceding sections.

SEC. 5427. Every person who knowingly and intentionally aids or abets any person in the commission of any felony denounced in the three preceding sections, or attempts to do an act therein made felony, or counsels, advises, or procures, or attempts to procure, the commission thereof shall be punished in the same manner and to the same extent as the principal party.

Falsely claiming citizenship.

SEC. 5428. Every person who knowingly uses any certificate of naturalization heretofore granted by any court, or hereafter granted, which has been or may be procured through fraud or by false evidence, or has been or may be issued by the clerk, or any other officer of the court without any appearance and hearing of the applicant in court and without lawful authority; and every person who falsely represents himself to be a citizen of the United States, without having been duly admitted to citizenship, for any fraudulent purpose whatever, shall be punishable by a fine of not more than one thousand dollars, or be imprisoned not more than two years, or both.

Provisions applicable to all courts of naturalization.

Sec. 5429. The provisions of the five preceding sections shall apply to all proceedings had or taken, or attempted to be had or taken, before any court in which any proceeding for naturalization may be commenced or attempted to be commenced.

CRIMES AGAINST ELECTIVE FRANCHISE.

Intimidating voters by bribery or threats.

SEC. 5507. Every person who prevents, hinders, controls, or intimidates another from exercising, or in exercising, the right of suffrage, to whom that right is guaranteed by the fifteenth amendment to the constitution of the United States, by means of bribery or threats of depriving such person of employment or occupation, or of ejecting such person from a rented house, lands, or other property, or by threats, of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, shall be punished as provided in the preceding section.

Conspiracy to injure or intimidate citizens in the exercise of civil rights.

SEC. 5508. If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall

be fined not more than five thousand dollars and imprisoned not more than ten years; and shall, moreover, be thereafter ineligible to any office, or place of honor, profit, or trust created by the constitution or laws of the United States.

SEC. 5509. If, in the act of violating any provision in either of the two preceding sections, any other felony or misdemeanor be committed, the offender shall be punished for the same with such punishment as is attached to such felony or misdemeanor by the laws of the state in which the offense is committed.

Other crimes committed in violating preceding sections.

SEC. 5510. Every person who, under color of any law, statute, ordinance, regulation, or custom, subjects or causes to be subjected, any inhabitant of any state or territory to the deprivation of any rights, privileges, or immunities, secured or protected by the constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be punished by a fine of not more than one thousand dollars, or by imprisonment not more than one year, or by both.

Depriving citizens of civil rights under color of state laws.

SEC. 5516. Every person who wilfully obstructs, hinders or prevents any officer or other person charged with the execution of any warrant or process issued under the provisions of sections nineteen hundred and eighty-four and nineteen hundred and eighty-five, title "Civil Rights," or any person lawfully assisting him, from arresting any person for whose apprehension such warrant or process may have been issued; or rescues or attempts to rescue such person from the custody of the officer or other person lawfully assisting when so arrested, pursuant to the authority herein given; or aids, abets, or assists any person so arrested, directly or indirectly, to escape from the custody of the officer or other person legally authorized to arrest the party; or harbors or conceals any person for whose arrest a warrant or process has been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall, for any of such offenses, be subject to a fine of not more than one thousand dollars, or imprisonment not more than six months, or both.

Obstructing execution of process in civil rights cases.

SEC. 5517. Every marshal and deputy marshal who refuses to receive any warrant or other process when tendered to him, issued in pursuance of the provisions of section nineteen hundred and eighty-five, title "Civil Rights," or refuses or neglects to use all proper means diligently to execute the same, shall be liable to a fine in the sum of one thousand dollars, for the benefit of the party aggrieved thereby.

Marshal refusing to receive or execute process.

Conspiracy to prevent accepting or holding office under United States, etc.

SEC. 5518. If two or more persons in any state or territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any state, district, or place where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property, so as to molest, interrupt, hinder, or impede him in the discharge of his official duties; each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

Conspiracy to deprive any person of the equal protection of the laws.

SEC. 5519. If two or more persons in any state or territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any state or territory from giving or securing to all persons within such state or territory the equal protection of the laws; each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

Unlawful presence of troops at elections.

SEC. 5528. Every officer of the army or navy, or other person in the civil, military or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any state, unless such force be necessary to repel armed enemies of the United States, or to keep the peace at the polls, shall be fined not more than five thousand dollars, and suffer imprisonment at hard labor not less than three months nor more than five years.

Intimidation of voters by officers, etc., of army or navy.

SEC. 5529. Every officer or other person in the military or naval service, who, by force, threat, intimidation, order, advice, or otherwise, prevents, or attempts to prevent, any qualified voter of any state from freely exercising the right of suffrage at any general or special election in such state, shall be fined not more than five thousand dollars, and imprisoned at hard labor not more than five years.

Officers of army or navy prescribing qualifications of voters.

SEC. 5530. Every officer of the army or navy who prescribes or fixes, or attempts to prescribe or fix, whether by proclamation, order, or otherwise, the qualifications of voters at any election in any state, shall be punished as provided in the preceding section.

SEC. 5531. Every officer or other person in the military or naval service, who, by force, threat, intimidation, order, or otherwise compels, or attempts to compel, any officer holding an election in any state to receive a vote from a person not legally qualified to vote, or who imposes or attempts to impose, any regulations for conducting any general or special election in a state different from those prescribed by law, or who interferes in any manner with any officer of an election in the discharge of his duty, shall be punished as provided in section fifty-five hundred and twenty-nine.

Interference
of same with
officer of elec-
tion, etc.

SEC. 5532. Every person convicted of any of the offenses specified in the five preceding sections shall, in addition to the punishments therein severally prescribed, be disqualified from holding any office of honor, profit or trust under the United States; but nothing in those sections shall be construed to prevent any officer, soldier, sailor, or marine from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the state in which he offers to vote.

Disqualifica-
tion for hold-
ing office.

PROVISIONS OF THE

Constitution of the State of Ohio

RELATING TO ELECTIONS.

ARTICLE V.

ELECTIVE FRANCHISE.

SEC. 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

Who may vote.

The constitutional provision requiring a person to have resided in the state one year previous to the election, applies to a person who is a minor at the time of coming into the state. T. 10-27-96.

SEC. 2. All elections shall be by ballot.

By ballot.

SEC. 3. Electors during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest in all cases, except treason, felony, and breach of the peace.

Voters, when privileged from arrest.

SEC. 4. The general assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or other infamous crimes.

Forfeiture of elective franchise.

SEC. 5. No person in the military, naval, or marine service in the United States, shall, by being stationed in any garrison, or military, or naval station, within the state, be considered a resident of this state.

Persons not considered residents of the state.

SEC. 6. No idiot, or insane person, shall be entitled to the privileges of an elector.

Idiots or insane persons.

ARTICLE XVII.

SECTION 1. Elections for state and county officers shall be held on the first Tuesday after the first Monday in

November in the even numbered years; and all elections for all other elective officers shall be held on the first Tuesday after the first Monday in November in the odd numbered years.

SEC. 2. The term of office of the governor, lieutenant governor, attorney-general, secretary of state and treasurer of state shall be two years, and that of the auditor of state shall be four years. The term of office of the judges of the supreme court and circuit courts shall be such even number of years not less than six (6) years as may be prescribed by the general assembly; that of the judges of the common pleas court six (6) years and of the judges of the probate court, four (4) years, and that of other judges shall be such even number of years not exceeding six (6) years as may be prescribed by the general assembly. The term of office of justices of the peace shall be such even number of years not exceeding four (4) years, as may be prescribed by the general assembly. The term of office of the members of the board of public works shall be such even number of years not exceeding six (6) years as may be so prescribed; and the term of office of all elective county, township, municipal and school officers shall be such even number of years not exceeding four (4) years as may be so prescribed.

And the general assembly shall have power to so extend existing terms of office as to effect the purpose of section 1 of this article.

Any vacancy which may occur in any elective state office other than that of a member of the general assembly or of governor, shall be filled by appointment by the governor until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election at the first general election for the office which is vacant, that occurs more than thirty (30) days after the vacancy shall have occurred. The person elected shall fill the office for the unexpired term. All vacancies in other elective offices shall be filled for the unexpired term in such manner as may be prescribed by law.

SEC. 3. Every elective officer holding office when this amendment is adopted, shall continue to hold such office for the full term for which he was elected, and until his successor shall be elected and qualified as provided by law.

OHIO ELECTION LAWS.

ORIGINAL SURVEYED TOWNSHIPS.

SEC. 1366. As soon as there are four, or more, electors in any original surveyed township of five or six miles square, or fractional township, wherein there is either the reserved section twenty-nine or sixteen, or where said section sixteen has been disposed of by congress and any other section granted in lieu thereof, whether such other section be situate within or without said original township, and in all other fractional townships which by law are entitled to a section or a part of a section for school purposes, the said electors, or any of them, may apply to the county commissioners for the organization and incorporation of such original township or fractional township. [73 v. 186, § 1.]

When original township may be organized and incorporated.

SEC. 1367. On the application of any of said electors, and it being made to appear to the satisfaction of the county commissioners, that there are at least four electors in any such original township or fractional township, the commissioners shall order an election of three trustees and one treasurer therein, and give at least fifteen days' written notice of such election, by setting up in three of the most public places in the township such notices, designating the time and place of such election, and the place shall be as near the center of such township as practicable. [29 v. 490, § 2.]

Application to commissioners and their order thereon, and notice of election.

SEC. 1368. Elections in such original surveyed townships, shall be held at such times and conducted in such manner as the trustees of such townships may provide, the place of holding said elections to be as near the center of the township as can be, and at least fifteen days' notice of such election to be given by notices posted in five or more of the public places of the original surveyed township, and the trustees of such township shall be a body corporate, with power to contract and be contracted with, sue and be sued, and to take charge of such section or sections, or parts of section or sections, and to manage the same according to the best interests thereof. [97 v. 186.]

Conduct of elections in.

Powers of trustees.

There is no provision of law for the payment of judges and clerks of elections in original surveyed townships, where such election is held under authority of this section, and other sections following, relating to elections in original townships. L. 11-29-05.

Terms of
office and sub-
sequent elec-
tion.

SEC. 1369. The trustees and treasurer shall hold their offices for three years, and a like election shall be held every third year, of which the trustees shall give fifteen days' previous notice as aforesaid. If said trustees shall at any time fail to give said fifteen days' notice; then the county auditor shall appoint from among the electors of such township three trustees and one treasurer, who shall hold their offices for the same term and perform the same duties and have the same powers as if elected as aforesaid. [97 v. 186.]

When county
auditor may
appoint
trustees or
treasurer.

SEC. 1371. When it comes to the knowledge of the county auditor that the electors of any such township have failed to apply to the commissioners as aforesaid, for one year after such application is authorized, or that in any such township the trustees and treasurer elected have failed to qualify or to perform the duties incumbent upon them, the auditor shall appoint from among the electors of such township three trustees and one treasurer, who shall hold their offices for the same term and perform the same duties, and have the same powers as if elected as aforesaid. And in case the term of office of such trustees and treasurer have expired, and no successors have been elected or appointed, as by this chapter provided, an election may be ordered, as provided in section thirteen hundred and sixty-seven. In case such application is made, the commissioners of the county in which said reserved section, or part thereof, is substituted, shall order an election, designating the time and place of holding the same. Said election shall be held at such times and conducted in such manner as said commissioners may provide. [97 v. 186.]

When election
may be held
to fill vacancy.

School lands
may be sold.

SEC. 1418. Section sixteen, and all lands in lieu thereof, granted for school purposes, may be sold, and such sales shall be according to the regulations hereinafter prescribed. [70 v. 195. § 133.]

Proceedings
when vote has
not been
taken.

SEC. 1419. In cases where there has been no vote taken for the sale of any such land, the trustees of any township to which such lands belong, shall, at least thirty days prior to the taking of such vote, cause not less than eight notices to be posted up in as many of the most public places of such township, notifying the voters resident therein to meet at some convenient place and time therein specified, and then and there cast their ballots for or against the sale of any such lands belonging to such township; and if such vote result in a refusal to sell such lands, the trustees may, in the same manner, authorize the taking of a subsequent vote as often as they deem proper; but no such subsequent vote shall be taken until one year has elapsed since the last preceding vote. [70 v. 195. § 134.]

Trustees may
authorize sub-
sequent vote.

Trustees of
township shall
preside at
meeting.

SEC. 1420. The trustees of the township shall preside at the taking of such ballots, and shall appoint two clerks, who shall keep two poll-books, containing the names of the

voters and the result of the ballot, which poll-books must be signed by the trustees and clerks; and in case such ballots result in favor of a sale, the trustees shall, within ten days after such election, deposit one of said poll-books with the auditor of the county within which said lands (or the greater portion thereof) are situated, with a copy of the notice given, and the affidavit of one or more of the trustees, stating the manner of giving such notices, and the time and place of putting up the same, which notices, affidavit, and poll-book shall be by said auditor copied into a book for that purpose to be provided, and when so recorded, such record shall be proof of the facts therein stated. [70 v. 195, § 135.]

Poll-book shall be deposited with auditor.

CIVIL TOWNSHIPS.

SEC. 1441. When a new township is set off, the county commissioners shall forthwith give public notice by advertisement, in three public places in such township, at least ten days before the time, of the time and place of holding an election for township officers, and the electors of such township shall at such time and place assemble, and then and there elect township officers; and the officers so elected shall hold their offices until the next annual township election, and their successors are elected and qualified. [51 v. 489, § 4.]

Election in new township.

SEC. 1442. Township officers shall be chosen for a term of two years and justices of the peace for a term of four years, by the electors of each township, on the first Tuesday after the first Monday in November in the odd numbered years, and their terms of office shall commence on the first day of January next after their election. [98 O. L. 171.]

Township officers and justices of the peace; election and beginning of term.

SEC. 1443. The trustees shall fix the place of holding elections within their township, or of any election precinct thereof, and they may purchase or lease for this purpose a house and suitable grounds, or by permanent lease or otherwise, a site, and erect thereon a house; and upon a vote of a majority of the electors of the township or a precinct thereof voting at any general election in favor of a tax therefor, at least thirty days' notice having been given by posting up such written notices in at least five of the most public places in such township or precinct that at such election a vote would be taken for or against a tax to purchase a site and build a town hall, the trustees may purchase a site and erect thereon a town hall for such township or precinct, the whole not to cost over two thousand dollars, and levy a tax on all the taxable property within such township or precinct to pay the same. [90 v. 257.]

Place of holding elections

Town hall.

An election will not be declared void because the notice required by statute was not given for the full length of time specified, when it appears that the great body of electors has actual notice of and participated in the election.

Harpster v. Brower, et al. 5. C. C. 395.

Shall preserve
order at elec-
tions.

SEC. 1444. The trustees at every election, or township meeting, have power to cause any disorderly person to be removed, and, if necessary, confined until the close of such election, or meeting; and every constable present shall obey their orders and directions, for the purpose of preserving order at such meeting. [51 v. 489, § 24.]

Notice of
township elec-
tion.

SEC. 1445. At least twenty days before the regular election for township officers, the trustees shall issue their warrant to a constable of the township, directing him to notify the electors of such township to assemble at the time and place appointed for the regular election, and such warrant shall enumerate the officers to be chosen at such election; and, on application of two or more freeholders of the township, for that purpose, the trustees shall insert in such warrant such other question, if any, as may be proposed to be submitted at such election. [98 O. L. 171.]

How notice
served.

SEC. 1446. The constable who receives such warrant shall notify the electors of the township, by setting up copies of such warrant in at least three public places in such township, at least ten days before the meeting of the electors; but where the office of one or more of the trustees is vacant, the township clerk, together with the trustee or trustees in office, shall issue the warrant aforesaid. [51 v. 489, § 17.]

Notice of
holding elec-
tions.

SEC. 1392. In all townships which have been divided, the trustees shall give fifteen days' notice of the time and place of holding elections in the precincts of such townships, by posting up written or printed notices in such number of places as to them seem proper, for the general information of the electors of the several precincts. [51 v. 497, S. & C. 1573.]

Election of
township
officers.

SEC. 1448. There shall be elected in each township one township clerk, three trustees, one township treasurer and such number of constables as may be directed by the trustees, and the judges and clerks in discharging their duties at such election shall be governed in all respects by the law regulating elections; and in case any two or more persons have the highest and an equal number of votes for any one of the township offices directed to be filled, the clerk of the township shall determine by lot which of the persons is duly elected. [98 O. L. 172.]

Laws govern-
ing judges
and clerks.
Tie vote.

The election of a road supervisor is held under the provisions of this section, and not under the Australian Ballot Law, hence a judge of such election was not rendered ineligible to serve, because of the fact that he was a candidate for road supervisor. K. 4-8-97.

In a proceeding to contest the election of a township trustee held under the Australian Ballot Law, rejection and destruction of the ballots by the judges of election is not final or conclusive, but the contents of the ballots thus rejected and destroyed may be shown by parole.

State ex rel. v. Conser, 5 C. C. (N. S.) 119.

In the absence of any statutory provision for the contest of election of township officers *quo warranto* is the proper remedy for determining the legality of an election of township trustee.

State ex rel. v. Conser, 5 C. C. (N. S.) 119.

A statute will not be construed as abridging or appealing the right to contest an election for fraud or mistake unless such intention is clearly expressed.

State ex rel. v. Conser, 5 C. C. (N. S.) 119.

SEC. 1. That in any township in which there have been located and established county or township ditches, or in which county or township ditches may hereafter be located and established, there may at the time and in the manner provided by law for the election of township officers, be elected a township ditch supervisor, who shall serve for a term of four years. In case a vacancy occurs in this office, by resignation or otherwise, the township trustees shall fill said vacancy by appointment, until the next proper election, when a successor shall be chosen for the unexpired term. [98 O. L. 280.]

Township ditch supervisor; election, term and vacancies.

SEC. 2996. Elections for township officers shall be held in the same precincts, and by the same judges of election, as provided in this title for the election of state and county officers; and returns of township elections shall be made by the judges thereof in the several election precincts, to the proper township clerks, within one day after the election. [69 v. 202, § 1.]

Where and how township elections to be held.

The ballot laws do not provide a form of ballot for the election of road supervisors. It is customary with the deputy state supervisor to print the township tickets with a blank space on the same under the designation; "For Road Supervisor _____ District." The voters may write the names of candidates in such space under the designation, and fill in the blank with the proper district number and the judges and clerks of election should canvass the same and certify the result to the township clerk. L. 9-28-05.

JUSTICES OF THE PEACE.

SEC. 566. When a new township is set off, the court of common pleas of the proper county shall determine on a suitable number of justices of the peace for such township, and the day of election, and the clerk of the court shall transmit a copy of the proceedings thereof to the trustees of the same, who shall immediately give notice to the electors, in the manner pointed out in section five hundred and sixty-seven, to elect the justices so determined on; and should there be no trustees of the township, the clerk shall give notice of such election by causing advertisements to be set up in three public places in the township, not less than ten nor more than fifteen days previous to the election designating the time and place of holding such election. [51 v. 406, § 1.]

Common pleas court shall fix number for new townships.

The nominees for the office of justice of the peace of a township containing more than one precinct, receiving the highest number of votes, of such township are entitled to the certificates

of election without regard to the precinct in which they reside.
L. 11-13-05.

Justices of the
peace; va-
cancies to be
filled by ap-
pointment by
trustees.

SEC. 567. When a vacancy occurs in the office of justice of the peace in any township, either by death, removal, absence at any time for the space of six months, resignation, refusal to serve, or otherwise, the trustees, having notice thereof, shall, within ten days from and after such notice, fill any such vacancy by appointing a suitable and qualified resident of the township who shall serve as justice until the next regular election for justice of the peace, and until his successor is elected and qualified; and the votes of a majority of the trustees shall be necessary to appoint. At the next regular election for such office some suitable person shall be elected justice in the manner provided by law, for the term of four years commencing on the first day of January next thereafter; and the clerk of the court, in certifying to the secretary of state the appointment of a justice of the peace to fill any such vacancy, shall specify in his certificate, the name of the justice of the peace whose place is supplied by the person whose appointment is so certified, and also the date when such vacancy occurred; and to enable the clerk of the court to comply with so much of this section as relates to his duties, the trustees shall notify him of any such vacancy, and the date when it occurred; and in case the election of an additional justice of the peace in any township is authorized by the proper authority, the clerk of the court, in certifying his election to the secretary of state, shall state in his certificate that he is such additional justice of the peace, so authorized and elected. [98 O. L. 171.]

Election and
term.

Notice to
county clerk
by trustees.

Question of
township
library shall
be submitted
to electors.

SEC. 1476. The trustees of any township, on the petition of twenty electors thereof, shall upon four weeks' public notice, published in some paper of general circulation in the county, submit to the electors of such township, at some general election in November, the question whether there shall be a public library established in such township for the use and benefit of the citizens thereof, and those voting at such election in favor of such library, shall put upon their ballots the words "Public library—yes," and those voting thereat against such library, the words, "Public library—no;" and if a majority of the electors voting at such election vote in favor thereof, the trustees aforesaid have authority, annually, to levy upon all the taxable property of such township a tax not exceeding one mill on the dollar valuation thereof, to be applied to the establishment and maintenance of a library, as aforesaid, and the procuring of a suitable room or rooms for the same. [97 v. 189.]

Hearse and
vault may be
provided if
electors vote
for same.

SEC. 1485. The trustees of any township are authorized to levy a tax in such amount, as shall be by them determined, to purchase a hearse and build a vault, or for either of said purposes, for the use of said township to be

under the control of the trustees thereof, or some person appointed by them; but the question of levying such tax, for either or both of said purposes, and the amount asked therefor shall be separately submitted to the qualified electors of the township at some general election, twenty days' notice thereof having been previously given by posting, in at least three public places in said township; the notice shall state specifically the amount to be raised, and for what purpose, either for purchase of hearse, or erection of vault, and if a majority of all the votes cast at such election are in favor of either, or both of said propositions, the same shall be considered adopted, and the tax herein provided for authorized [75 v. 46, § 1.]

SEC. 1486. The electors voting at said election shall have placed on their ballots the words, "Tax for hearse — Yes," or "Tax for hearse — No," and upon the same ballot, "Tax for vault — Yes," or "Tax for vault — No," and may vote for one proposition and against the other, or for or against both. [75 v. 46, § 2.]

Election
therefor.

INCORPORATION OF VILLAGES AND HAMLETS.

SEC. 1561a. When the inhabitants of any territory or portion thereof desire that such territory shall be incorporated into a village or hamlet they shall make application to the trustees of the township [in which] the territory is located, and if the territory is located in more than one township, to the trustees of the township in which the majority of the said inhabitants reside, by petition, signed by at least 30 electors thereof, a majority of whom shall be freeholders. Said petition shall be accompanied by an accurate map of the territory, and shall contain in addition to the matter set forth in section 1555 of the Revised Statutes of Ohio, the request of the petitioners that an election be held to obtain the sense of the electors upon such incorporation and such petition may be presented at a regular or special meeting of the township trustees. [94 v. 18.]

Petition to
township
trustees for
incorporation.

SEC. 1561b. When the township trustees receive the petition, together with the proof that the persons who signed it are electors, and reside within the limits of the proposed incorporation, and that a majority of them are freeholders, they shall then make and declare that such territory shall, with the assent of the qualified voters thereof as hereinafter provided, be an incorporated village or hamlet by the name specified in the petition aforesaid, and they shall also include in such order, a notice for the election by the qualified voters, residents in said territory, at a convenient place therein to be by them named, on some day within fifteen days thereafter, to determine whether such territory shall be incorporated, and said township trustees shall give ten days' notice of such election by publication in a newspaper

Procedure of
trustees upon
receipt of pe-
tition.

of general circulation in such territory, and cause written or printed notices thereof, to be posted in three or more public places in said territory proposed to be incorporated. [92 v. 333.]

Election
upon question
and procedure
thereafter.

SEC. 1561c. The township trustees shall be judges of the election, and the township clerk shall be clerk thereof, and the election shall, as far as practicable, be conducted in the manner prescribed for the election of township officers, and the ballots shall contain the words "For incorporation" and "Against incorporation," and if a majority of the ballots cast at such election shall contain thereon the words "Against incorporation," the voters of such territory shall be deemed not to have assented to the incorporation thereof, and no further proceedings shall be had in relation thereto, but this shall not be a bar to other proceedings for the same purpose; but if a majority of the ballots cast shall have thereon the words "For incorporation," the township trustees shall cause to be entered on the journal, a minute of all their proceedings, the number of votes cast at the election, the number of votes cast for incorporation, and the number cast against incorporation, and they shall then declare that said territory shall from that time be deemed an incorporated village or hamlet, and shall make an order declaring that such village or hamlet has been incorporated by the name adopted, and the trustees shall make a certified transcript of the journal entries of all their proceedings, together with their original petition and plat, and a majority of them having signed it, they shall deliver the same to the county recorder, who shall forthwith make a record of the petition, transcript and plat or map, in the public book of records, and preserve in his office the original papers delivered to him by the trustees, and certify thereon that the transcribed petition and map are properly recorded. When the recorder has so made said record, he shall certify and forward to the secretary of state, a transcript of the same. The corporation shall then be a village or hamlet, as the case may be, under the name adopted in the petition, with all powers and authorities, and be recognized as such, the same as if such incorporation had been organized under chapter 2, division 2, title 12 of the Revised Statutes of Ohio, but no injunction shall be brought, as provided in section 1562 of the Revised Statutes of Ohio unless the same be instituted within ten days from the filing of the papers with the county recorder; provided, however, that the right of petition to the court of common pleas for error, shall exist as is provided for in the following sections of this chapter. [92 v. 334.]

Injunction;
petition for
error.

The submission of a question of incorporation is governed by the special provisions of this section, and not by the supervisory election law. L. 2-28-05.

NEWLY CREATED HAMLET OR VILLAGE.

SEC. 1565. The first election of officers for such corporation shall be at the first annual municipal election after its creation, and the place of holding the election shall be fixed by the agent of the petitioners, and notice thereof, printed or plainly written, shall be posted by him at three or more public places within the limits of the corporation, at least ten days before the election; which election shall be conducted, and the officers chosen and qualified, in the manner prescribed for the election of township officers; provided, that such first election may be a special election held at any time not exceeding six months after the incorporation, and the time and place of holding such special election shall be fixed by the agent aforesaid, and notice thereof shall be given as is required in this section for the annual municipal election. [73 v. 157, § 24.]

Election of
officers.

The returns of the first election for village officers should be made to the township clerk, whose duty it is to canvass the returns and issue certificates of election to the officers of the newly constituted village. Thereafter all returns of municipal elections will be made to the clerk of the village. L. 1-30-06.

SEC. 1566a. That any territory requiring police protection and containing a population of not less than fifty persons and immediately surrounding a summer resort, park, lake or picnic ground, kept regularly for such outing and pleasure, may incorporate by setting up notices of an election in three of the most public places in the territory proposed to be included in the incorporation signed by five citizens and electors of the territory. Said notices to be posted at least ten days before the election, stating time and place where such election shall be held, and shall contain an accurate description of the territory proposed to be taken into the incorporation. The election shall, as far as practicable, be conducted in the manner prescribed for the election of township officers. The electors present shall choose three judges and two clerks from the electors present to act as judges and clerks of said election, and the ballot shall contain the words: "For incorporation" and "Against incorporation." If the majority of the ballots cast at such election shall contain the words "For incorporation," it shall be deemed that the citizens of the designated territory have assented to such incorporation. And, if the majority of the ballots cast at such election shall contain the words "Against incorporation," it shall be deemed that the people of said designated territory shall not have assented to the incorporation thereof. Such laws governing the creation and regulation of incorporated villages in force and such as may be hereinafter enacted shall have full force and effect in so far as are not inconsistent and do not conflict with the provisions of this act. [95 v. 469.]

Incorporation
of territory
surrounding
summer re-
sorts, etc.

Laws to
govern.

SURRENDER OF CORPORATE POWERS.

Villages may
surrender
their corpor-
ate powers;
procedure.

SECTION 4. Villages may surrender their corporate powers upon petition to council of at least forty per cent. of the electors thereof, to be determined by the number voting at the last municipal election, and an affirmative vote of a majority of said electors at a special election which shall be provided for by council, and conducted and canvassed, and the result certified and made known as regular municipal elections within the corporation. If the result of the election is in favor of such surrender, the clerk of the village shall certify the same to the secretary of state and the recorder of the county, who shall record the same in their respective offices, and thereupon the corporate powers of such village shall cease; provided that such surrender of corporate powers shall not affect vested rights or accrued liabilities of such village, or the power to settle claims, dispose of property, or levy and collect taxes to pay existing obligations; but after the presentation of the petition herein referred to, council shall not create any new liability until the result of the election is declared, nor thereafter, if such result is in favor of the surrender of corporate powers; provided, further, that due and unpaid taxes may thereafter be collected, and all moneys or property remaining after such surrender shall belong to the school district embracing such village.

All courts shall take judicial notice of the classification of the municipal corporations, and their advancement, reduction and surrender of powers. [96 v. 21.]

ANNEXATION OF ONE MUNICIPAL CORPORATION TO ANOTHER.

Annexation of
one municip-
ality to
another.

SEC. 1606. When the inhabitants, generally, of any municipal corporation, the territory of which shall be contiguous, and adjoining the territory of another municipal corporation, desire to be annexed to such other corporation, such annexation shall be effected in the manner hereinafter described. [66 v. 267, § 697.]

Submission of
question to
vote.

SEC. 1607. The trustees or council of the corporation proposing such annexation shall submit the question of annexation to the electors of the corporation, and the trustees or council of the incorporation to which the annexation is proposed to be made, shall also submit the same question to its electors. [66 v. 267, § 698.]

Ordinance for
purpose.

SEC. 1608. The submission shall be by ordinances adopted by the trustees or council of each corporation at least thirty days prior to an annual election, at which election the vote shall be taken, and the ordinances shall each prescribe the manner in which such submission shall be

made, and they shall be published in each corporation, by posters or otherwise, in such manner as the respective trustees or councils may deem most expedient, for the period of at least twenty days prior to the day fixed for such election. [66 v. 268, § 700.]

SEC. 1609. If a majority of the electors of each corporation, voting on the question so submitted, is in favor of such annexation, the trustees or council of each shall thereupon cause the result to be certified to the other corporation. [66 v. 268, § 700.]

Result, if favorable, to be certified.

ELECTION OF MUNICIPAL OFFICERS.

SEC. 222. All elective municipal officers, and judges and clerks of police courts and assessors shall be chosen on the first Tuesday after the first Monday in November in the odd numbered years, for a term of two years, except judges of police courts who shall be chosen for a term of four years, and their respective terms of office shall commence on the first day of January next after their election. [98 O. L. 172.]

Municipal officers; election and beginning of term.

SEC. 1718. In municipal corporations divided into wards, as assessor shall be elected in each ward at every annual election. He shall take the same oath, give the same bond and perform the same duties as are provided with respect to township assessors. Provided, that in any township, composed in part of a municipal corporation or municipal corporations, the county commissioners, may, by order entered on their journal, constitute the territory outside such municipal corporation or corporations one or more assessor districts, in each of which an assessor shall be elected annually, in accordance with law. Provided, also that nothing herein shall interfere with the duties now devolving upon deputy state supervisors of elections. [91 v. 76.]

Election, oath, bond and duties of assessors.

Assessor districts in certain townships.

Duties of deputy supervisors.

SEC. 1725. The council of every municipal corporation shall designate the place or places for holding the regular elections; and in all corporations divided into wards, there shall be a place or places in each ward designated for holding elections. [67 v. 70, § 72.]

Designation of election.

Under this section giving council authority to control the location of voting places within a village, it is the duty of such village to pay the rent of such rooms or buildings, so selected, from the general revenue of the village. L. 12-11-05.

It is the duty of the proper officers of the municipality to pay the expense of the rent of all such places so designated by council for election purposes. L. 11-12-06.

SEC. 1726. The mayor, previous to any election for a municipal officer or officers, shall issue a proclamation to the electors of the corporation, or of the respective wards

Mayor's election proclamation.

or districts, as the case may require, setting forth the time and places of election, and the officers to be chosen, and cause such proclamation to be published in some newspaper printed in the corporation, at least ten days previous to the election, or, if no such newspaper is published in the corporation, such notice may be given by posters. [66 v. 161, § 73.]

Who are
electors.

SEC. 1727. A person who, at the time of an election for municipal officers, is an elector for county officers, and resides in the ward, or corporation, if there be no wards, in which he offers to vote, is a qualified elector; and the elections shall be held and conducted, in all respects, in the manner prescribed by law in case of township elections. [66 v. 162, § 74.]

Election re-
turns, when
opened.

SEC. 1728. Returns of municipal elections in corporations which are divided into election districts or wards, shall be made to the clerk or auditor of the corporation, and be opened by him within the time prescribed for the opening of the returns of county elections. [97 v. 190.]

See Lillard v. Ampt, 4 N. P. 305.

Abstract of
votes.

SEC. 1729. The clerk or auditor, or in his absence or disability, some person to be selected by the council, shall call to his assistance the mayor, and in his presence, make an abstract and ascertain the candidates elected, as required by law with respect to county officers; and he shall, in like manner, make a certificate as to each candidate so elected, and cause the same to be delivered to him, or left at his usual place of abode; provided, that if there is no mayor, or the mayor is absent or disabled, or a candidate at such election, the clerk shall call to his assistance a justice of the peace of the county. [97 v. 190.]

The village clerk in canvassing the returns of a village election has no authority to go back of the returns made by the judges and clerks of election. The proper course is to issue certificates to the persons shown by the face of such returns to have received a majority of the votes cast for the several offices named therein. Should any person be aggrieved by errors made in the printing of the ballots, such errors can only be corrected by a contest brought by the person aggrieved in a competent court against the persons shown on the face of the returns to have been elected. L. 11-27-05.

Tie vote; de-
cision by lot.

SEC. 1731. If the result cannot be determined from the votes cast, for the reason that more than the number of persons to be elected have an equal number of votes for the same office, then the officers whose duty it is to ascertain the persons elected, shall determine by lot which of such persons shall be declared elected; and the election of any municipal officer, except a member of the council, may be contested in the manner provided by law for contesting the election of justices of the peace, except in cities of the first grade of the first class, such election may be contested only

in the manner provided for contesting the election of county officers. [67 v. 70, § 78.]

The determination by a council of the contested election of a number of its body, cannot be reviewed on error.

Stearns v. Village of Wyoming et al. 53 O. S. 352.

The jury selected to try a contested election case instituted by a rival candidate against one who has, by the proper authority, been declared duly elected to the office of mayor at a regular municipal election, is authorized to decide, and should determine which of the candidates was elected, or, that there was no valid election of either, as the fact may warrant; a finding that the contestee did not receive a majority of all the legal votes cast at that election, and a decision that, therefore, he was not elected to the office, is incomplete, and insufficient to defeat his title to the office.

State ex rel. v. Wright, 56 O. S. 540.

A mayor of a municipal corporation who has been regularly elected to the office, is entitled to serve until his successor is qualified; and while he continues to so serve on account of the failure to elect his successor there is no vacancy, in the office nor is the council authorized to make an appointment thereto.

State ex rel. v. Wright, 56 O. S. 540.

SEC. 1838. The mayor shall, three days previous to and on the day of any election, issue a proclamation to the public, setting forth therein the substance of the enactments to prohibit the sale of intoxicating liquors on that day; and it shall be the duty of the mayor to take proper measures for the enforcement of such enactment. [61 v. 24, § 1.]

Proclamation
as to sale of
liquors on
election day.

The expense of printing of the Mayor's proclamation, required by this section, must be paid by the municipality. L. 11-12-06.

TOWNSHIP AND MUNICIPAL BONDS.

SEC. 2835. That the trustees of any township, or the council of any municipal corporation of the state of Ohio, shall have the power to issue and sell bonds in such amounts and denominations, for such period of time and at such rate of interest, not exceeding six per cent., and in such manner as is provided by law for the sale of bonds by such township or municipal corporation, for any of the purposes provided for in this act, whenever such trustees or council by an affirmative vote of not less than two-thirds of the members elected or appointed thereto shall by resolution or ordinance deem the same necessary.

Townships
and municip-
alities may
issue and sell
bonds for
purposes
specified in
this act.

1. For procuring the real estate and right of way for any improvement authorized by this section, or for purchasing real estate with a building or buildings thereon, to be used for public purposes.

2. For extending, enlarging, improving, repairing or securing a more complete enjoyment of any building or improvement authorized by this section, and for equipping and furnishing the same.

3. For sanitary purposes and for erecting a crematory or providing other means for disposing of garbage and refuse matters.

4. For improving highways leading into the township or corporation, or for building or improving a turnpike, or for purchasing one or more turnpike roads and making the same free.

5. For constructing wharves and landings on navigable waters.

6. For erecting infirmaries.

7. For erecting workhouses, prisons and police stations.

8. For erecting houses of refuge and corrections.

9. For erecting market houses and providing market places.

10. For erecting public halls and public offices.

11. For erecting or purchasing waterworks and supplying water to the township, or corporation and the inhabitants thereof.

12. For erecting or purchasing gas works or electric light works, and for supplying light to the township or corporation and the inhabitants thereof.

13. For providing grounds for cemeteries or crematories, for enclosing and embellishing the same, and for erecting vaults.

14. For constructing sewers, sewage disposal works, flushing tunnels, drains and ditches.

15. For establishing free public libraries and reading rooms.

16. For the establishment of free public baths.

17. For erecting monuments to commemorate the services of soldiers, sailors and marines of the state and nation.

18. For improving any water course or water front.

19. For the payment of obligations arising from emergencies resulting from epidemics, or floods, or other forces of nature.

20. For purchasing and condemning the necessary land for park and boulevard purposes and for improving the same as well as for improving or completing the improvement of any existing boulevard, park, or parks.

21. For erecting hospitals and pest houses and for rebuilding, or improving existing hospitals and pest houses.

22. For resurfacing, repairing, or improving any existing street or streets as well as other public highways.

23. For opening, widening and extending any street or public highway.

24. For purchasing or condemning any land necessary for street or highway purposes, and for improving the same or paying any portion of the cost of such improvement.

25. For constructing levees and embankments or paving or improving the same, and for improving any water

course passing through said township or municipal corporation.

26. For constructing or repairing viaducts, bridges and culverts, and for purchasing or condemning the necessary land therefor.

27. For erecting any building necessary for a fire department, purchasing fire engines, fire boats, constructing water towers, and fire cisterns, and paying the cost of placing underground the wires or other signal apparatus of any fire department.

The bonds herein authorized may be issued for any or all purposes enumerated herein, but the total bonded indebtedness hereafter created in any one fiscal year under the authority of this act by any township or municipal corporation shall not exceed one (1) per cent. of the total value of all property in such township or municipal corporation, as listed and assessed for taxation, except as otherwise provided in this act.

Total bonded indebtedness permitted to be created by township or municipality in any one year.

Whenever the trustees of any township or the council of any municipal corporation, shall by resolution or ordinance passed by an affirmative vote of not less than two-thirds of all the members elected or appointed thereto, deem it necessary in any one fiscal year to issue bonds for all or any of the purposes authorized in this act in any amount greater than one per cent. of the total value of all property in such township or municipal corporation as listed and assessed for taxation, then and in that event they shall submit the question of issuing any bonds in excess of said one per cent. to a vote of the qualified electors of such township or municipal corporation at a general or special election in the manner hereafter provided in section 2837, Revised Statutes.

Exception; may exceed said amount after submission of question to vote.

Provided, however, that the net indebtedness incurred by any township or municipal corporation, after the passage of section 2835, Revised Statutes, as amended April 29, 1902, for the purpose herein enumerated, shall never exceed four (4) per cent. of the total value of all property in such township or municipal corporation, as listed and assessed for taxation, unless an excess of such amount is authorized by vote of the qualified electors of such township or municipal corporation in the manner hereafter provided in section 2837, Revised Statutes.

Amount of net indebtedness permitted to be incurred by township or municipality at any time; exception.

In arriving at the net indebtedness incurred, allowance shall be made only for the amount held in the sinking fund for the redemption of bonds theretofore issued under the provisions of section 2835 as amended April 29, 1902, and subsequently, and the net indebtedness shall be held to be the difference between the par value of all such outstanding and unpaid bonds and the amount held in the sinking fund for their redemption.

"Net indebtedness" defined.

For the purposes of this act the fiscal year shall hereafter be the calendar year, from January 1 to December 31,

Fiscal year for purposes of this act.

inclusive, and an indebtedness shall not be deemed to have been created or incurred, where the work is to be done by or through the officers of the township or municipal corporation, until the bonds therefor have been issued and sold.

When limitation above prescribed not applicable.

SEC. 2835b. Provided further that the limitations of one per cent. and four per cent. prescribed in section 2835, Revised Statutes, shall not be construed as affecting bonds issued under authority of said section 2835 upon the approval of the electors of the corporation, nor shall bonds which are to be paid for by assessments specially levied upon abutting property, nor bonds issued for the purpose of constructing, improving and extending waterworks when the income from such waterworks is sufficient to cover the cost of all operating expenses, interest charges and to pass a sufficient amount to a sinking fund to retire such bonds when they become due, nor any bonds issued prior to the passage of section 2835, Revised Statutes, as amended April 29, 1902, be deemed as subject to the provisions and limitations of said section, or be considered in arriving at the limitations therein provided. [98 O. L. 66.]

Tax shall be levied to pay bonds and interest; exception.

SEC. 2836. For the payment of bonds issued under the authority of section 2835 of the Revised Statutes or issued after a submission of the question to the people under the provisions of section 2837 of the Revised Statutes, the trustees of any township or the council of any municipal corporation shall, unless the interest on and redemption of such bond is otherwise provided for, levy a tax in addition to all levies now authorized by law, every year during the period said bonds have to run sufficient to pay the interest on said bonds and to provide a sinking fund for their final redemption at maturity. [98 O. L. 66.]

Procedure When question of bond issue must be submitted to vote.

SEC. 2837. Before any bonds in excess of the said one per cent. in any one year or in excess of the said four per cent. in the aggregate are issued or tax levied, as provided in sections 2835 and 2836, Revised Statutes, the question of issuing the same shall be submitted to the voters of the township or municipal corporation at a general or special election. And whenever the trustees of any township or the council of any municipal corporation shall by resolution or ordinance passed by an affirmative vote of not less than two-thirds of all the members elected or appointed thereto, declare it necessary to issue and sell the bonds of such township or municipal corporation as the case may be, for any or either of the purposes mentioned in section 2835 of the Revised Statutes in excess of the amounts therein authorized, and shall by such resolution or ordinance fix a date upon which the question of issuing and selling such bonds shall be submitted to the electors of such township, or municipal corporation, and shall cause a copy of such resolution or ordinance to be certified to the deputy state supervisors of the

county in which such township or municipal corporation is situated, and such deputy state supervisor shall thereupon proceed to prepare the ballots and make all other necessary arrangements for the submission of such question to the electors of any such township or municipal corporation at the time fixed in said resolution. Such election shall be held at the regular place or places of voting in such township or municipality, and shall be conducted, canvassed and certified in the same manner, except as otherwise provided by law, as November elections in such township or municipal corporation for the election of officers thereof. Thirty days' notice of the submission shall be given in one or more papers printed therein once a week for four consecutive weeks, stating the amount of bonds to be issued, the purpose for which they are to be issued, and the time and place of holding the election; and if no newspaper is printed therein the notice shall be posted in a conspicuous place and published once a week for four consecutive weeks in some newspaper of general circulation in the township or municipal corporation; and if two-thirds of the voters voting at such election upon the question of issuing the bonds vote in favor thereof, then and not otherwise the bonds for such excess shall be issued and tax levied. Those who vote in favor of the proposition shall have written or printed on their ballots in quotation, "For the issue of bonds;" and those who vote against the same shall have written or printed on their ballots the words, "Against the issue of bonds." Provided, however, that no township or municipal corporation shall hereafter create or incur a net indebtedness under the authority of this act in excess of eight per cent. of the total value of all property in such township or municipal corporation as listed and assessed for taxation. All bonds heretofore issued in good faith under the authority of section 2835, Revised Statutes, as amended April 29, 1902, and April 23, 1904, which at the time of issue, were within the limitations herein provided, shall be valid obligations of the township, city, village or other municipal corporation which issued them and in arriving at the limitations of 8 per cent. herein provided, and of 4 per cent. in section 2835 Revised Statutes provided, all such bonds, except those excluded by the provisions of section 2835^b, Revised Statutes, shall be considered. [98 O. L. 67.]

Number of
votes necessary to
authorize issue.

Total net
indebtedness
permitted.

AN ACT.

To authorize cities to issue bonds for park purposes.

SECTION 1. That any city in the State of Ohio be and the same is hereby authorized to issue, in addition to any bonds heretofore authorized to be issued, the bonds of any such city in any sum or sums, not exceeding in amount such a sum as shall be eight-tenths of one per centum of the total valuation for taxation of all taxable property within such

Cities authorized to issue
bonds for
park purposes.

municipal corporation, as the same shall appear upon the county duplicate for the year in which such bonds are issued, said bonds to be issued and sold in the manner prescribed by law. The proceeds of any bonds issued under authority of this act shall be exclusively used to acquire and improve the necessary land for the establishment of a park in connection with public buildings in any city.

Shall not be considered as increasing aggregate city debt.

SEC. 2. Bonds issued under authority of this act shall not be considered as increasing the aggregate debt of any such city, as contemplated in section 2704 of the Revised Statutes of Ohio.

Submission of question of bond issue to vote, etc.

SEC. 3. Before any such bonds are issued such question shall be submitted to the voters of such city at a special or general election, such election to be designated by ordinance duly adopted by the council of such city, and which ordinance shall contain a description of the land and specify the purposes for which the proceeds of such bonds are to be expended, and if a majority of the voters voting at such election, upon the question of issuing the bonds, vote in favor thereof, then and not otherwise, the bonds shall be issued and the taxes levied. [95 v. 438.]

AN ACT.

Authorizing the issuing of bonds of municipal corporations for enlarging, improving or extending natural gas works, and providing for submitting issuing the same to a vote of the people.

Municipalities authorized to issue bonds for improving natural gas works.

SECTION 1. That the council, board of legislation or other legislative body or bodies of any municipal corporation of the state of Ohio shall have power to issue and sell bonds in such manner as is provided by law for the sale of bonds by municipal corporations, at a rate of interest not exceeding six per cent., whenever such council, board of legislation or other legislative body or bodies, by an affirmative vote of not less than two-thirds of the members elected or appointed thereto shall, by resolution or ordinance, deem the same necessary for the purpose of extending, enlarging, improving, repairing or securing a more complete enjoyment of any natural gas works owned by such municipal corporation, subject, however, to the provisions of section 2 of this act. [95 v. 478.]

Question of issue to be submitted to vote.

SEC. 2. Before any such bonds are issued, the question of issuing the same shall be submitted to the voters of the municipal corporation at a general or special election, whenever the council of any municipal corporation shall, by resolution or ordinance, passed by an affirmative vote of not less than two-thirds of all the members elected or appointed thereto, declare it necessary to issue and sell the bonds of such municipal corporation for any of the purposes set forth in section 1 of this act, they shall, by such resolution or ordinance fix the date upon which the question of the

issue and sale of such bonds shall be submitted to the electors of such municipality, and shall cause a copy of such resolution or ordinance to be certified to the deputy state supervisors of the county in which such municipal corporation is situated, and such deputy state supervisors shall thereupon proceed to prepare the ballots and make all other necessary arrangements for the submission of such question to the electors of such municipal corporation at the time fixed in such resolution or ordinance. Such election shall be held at the regular place or places of voting in such municipal corporation, and shall be conducted, canvassed and certified in the same manner, except as otherwise provided by law, as November elections in such municipal corporation for the election of officers thereof; provided, however, that, when a special election for such purpose is held in a municipal corporation divided into wards, there may be but one voting place in each ward, which shall be designated by the deputy state supervisors of elections, and the notice hereinafter provided for shall designate the voting places in each ward. In all cities in which registration is required, if but one voting place is designated in each ward, certificates of removal shall not be necessary, except where transfers are required from one ward to another, and the board of deputy state supervisors of all such cities shall issue such removal certificates. Fifteen days' notice of the submission shall be given in one or more newspapers printed therein once a week for two consecutive weeks, stating the amount of bonds to be issued, the purpose for which they are to be issued, and the time and place of holding the election; and, if no newspaper is printed therein, the notice shall be posted in a conspicuous place and published once a week for two consecutive weeks in some newspaper of general circulation in the municipal corporation. If two-thirds of the voters voting at such election upon the question of issuing the bonds vote in favor thereof, then, and not otherwise, the bonds shall be issued, and a tax may be levied for the purpose of paying the interest and principal upon such bonds. Those who vote in favor of the proposition shall have written or printed on their ballots, in quotation, "For the issue of bonds;" those who vote against the same shall have written or printed on their ballots the words, "Against the issue of bonds." [97 v. 237.]

STATE AND COUNTY ELECTIONS.

SEC. 2977. The sheriff of each county shall, at least fifteen days before the holding of any general election and at least ten days before the holding of any special election, for any officer named in the next section, give notice by proclamation throughout his county of the time and place of holding such election, and the officers at that time to be chosen, one copy of which shall be posted up at each of the

Sheriff to
issue procla-
mation of
election.

places where elections are appointed to be held; and such proclamation shall also be inserted in some newspaper published in the county, if any is published therein. [50 v. 311, § 4.]

Notice of the submission of any question to be voted upon should be embodied in the proclamation. See 2996-2 R. S.

Though the neglect of a Sheriff by proclamation, to give notice of an election may be competent evidence, in connection with other circumstances, to prove fraud or conspiracy on the ground of which an election is contested, such neglect is not conclusive of the invalidity of an election.

State ex rel. Attorney General v. Taylor, 15 O. S. 137.

A proceeding in mandamus to compel the Sheriff to give notice and make proclamation to the qualified voters of a county to elect a judge of the court of common pleas therein is properly instituted upon the relation of an elector of such county.

State v. Brown, 38 O. S. 344.

As to the Sheriff's proclamation, see further Foster v. Scarff, 15 O. S. 532.

Time of state
and county
elections.

SEC. 2978. All general elections for governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, state commissioner of common schools, member of the board of public works, judge of the supreme court, clerk of the supreme court, judge of the circuit court, judge of the common pleas court, senators and representatives to the general assembly, judge of the probate court, clerk of the common pleas court, sheriff, county auditor, county commissioner, county treasurer, county recorder, county surveyor, prosecuting attorney, infirmary director, and coroner shall be held on the first Tuesday after the first Monday in November. All votes for any judge for an elective office, except a judicial office, under the authority of this state, given by the general assembly or the people shall be void. [83 v. 35.]

Of congressional
elections.

SEC. 2979. The electors of each congressional district in this state shall biennially, on the first Tuesday after the first Monday in November, vote for a representative in the congress of the United States for the term commencing on the fourth day of March next thereafter. [83 v. 35.]

Vacancy in
office of representative
to congress and
members of
general assembly;
how filled.

SEC. 2988. Whenever a vacancy happens in the office of representative to congress, or senator or representative to the general assembly, the governor shall, upon satisfactory information thereof, issue a writ of election, directing that a special election be held to fill such vacancy, in the territory entitled to fill the same, on a day which shall be specified in the writ; such writ shall be directed to the sheriff or sheriffs within such territory, who shall give notice of the time and places of holding such election, as in other cases; and such election shall be held and conducted, and returns thereof made, as in case of a regular election. [50 v. 311, § 28.]

SEC. 2993. If any number of persons greater than the number of county offices directed to be filled at any election have the highest and an equal number of votes, the deputy state supervisors aforesaid shall determine by lot which of the persons shall be duly elected; and if, at any election for senators or representatives to the general assembly, there is no choice in any instance, on account of two or more persons having received the highest and an equal number of votes, the deputy state supervisors issuing the certificates of election shall publicly determine by lot who of those having such equal number of votes shall be elected; such decision by lot shall be made in their office aforesaid, at ten o'clock A. M. on the eighth day after the election; and in such case the deputy state supervisors shall not be required to forward the returns of the election until such decision by lot has been made. [90 v. 281.]

Tie votes for county officers and members of the general assembly to be determined by lot.

SEC. 2995. The deputy state supervisors shall, without fee, make, and, upon demand, deliver to the persons elected respectively to the offices of probate judge, clerk of the court of common pleas, sheriff, coroner, county auditor, county commissioner, county treasurer, county recorder, county surveyor, prosecuting attorney, infirmary director, and senator and representatives to the general assembly, certificates of their election; and they shall also make, for any elector of his county, upon being paid one dollar therefor, an abstract of votes cast at any election to fill any of said offices. [90 v. 281.]

Certificates of election of certain officers; abstracts of votes for such officers.

PRESIDENTIAL ELECTIONS.

SEC. 2967. At least fifteen days before the time for holding the election provided for in the next section, the sheriff shall give public notice by proclamation throughout his county, of the time and place of holding such election, and the number of electors to be chosen; a copy of which shall be posted up at each of the places where elections are appointed to be held, and inserted in some newspaper published in the county, if any is published therein. [61 v. 84, § 1; 50 v. 311, § 4.]

Sheriff shall issue proclamation of election.

SEC. 2968. The qualified electors shall, on the Tuesday next after the first Monday in November, in the year eighteen hundred and eighty, and every fourth year thereafter, elect a number of electors of president and vice-president of the United States, equal to the number of senators and representatives this state may be entitled to in the congress of the United States; but no senator or representative in congress, or other person holding an office of trust or profit under the United States, or any law thereof, shall be eligible as an elector of president or vice-president. [61 v. 84, § 1.]

Electors of president and vice president to be elected.

Secretary of state to canvass returns, and governor to issue certificates and make publications.

SEC. 2970. When returns are received from all the counties, the secretary of state shall, in the presence of the governor, auditor of state, and such other state officers as may choose to attend, open the abstracts of poll-books, and as they are opened, cause the same to be read aloud, and make an abstract showing the number of votes given for each person for such office; and if two or more such persons receive an equal number of votes, the secretary of state, in the presence of the state officers aforesaid, shall determine by lot which of such persons is duly elected: and the governor shall make, and transmit by mail to the person having the highest number of votes, or whose election was determined by lot as aforesaid, certificates of their election to the office of elector of president and vice-president of the United States, and shall cause notice of their election to be published in three newspapers published at Columbus, two of which shall be of opposite politics. [70 v. 272, § 1.]

Notice of contest of election of presidential electors.

SEC. 2970a. Any qualified voter may contest the election of the electors so chosen, or any of them, by serving notice upon the contestee or contestees in the manner and time prescribed in section 3005, and filing a copy thereof with the governor of the state within five days after the mailing by him of the certificates of election prescribed in section 2970; and the provisions of sections 2998, 2999, 3000 and 3001 shall apply to such contests, except that all testimony taken and all matters relating to the contest shall be sent to and filed with the secretary of state, before the day appointed by the governor for the hearing; and every such contest shall be heard and determined as hereinafter provided. [85 v. 26.]

Procedure.

Commission to hear such contests.

SEC. 2970b. Upon the filing of the copy of such notice with the governor, it shall be his duty within five days to appoint four of the judges of the circuit courts, not more than two of whom shall be of the same political party, or so reputed to be, who, with the governor, shall be a commission to hear and determine such contest; and he shall appoint the time for such hearing, which shall be within ten days, and give them notice thereof; and thereupon a certified copy of the notice filed with the governor by the contestor, and notice in writing to the contestee or contestees of the time so appointed for the hearing, and requiring him or them to attend in the hall of the supreme court at Columbus, at such time, and answer the contest, shall be issued by the secretary of state to the sheriff of Franklin county; or if he be disqualified, to the coroner of said county, and may and shall be served by him upon such contestee or contestees, in any county, and return made to the secretary of state, as upon the summons in a civil action. The secretary of state shall act as the secretary of such commission, and discharge such duties as they may direct in that behalf. [85 v. 26.]

Notice to contestees of time of hearing, etc.

Secretary of commission.

SEC. 2970c. The said commission shall, in hearing and determining such contest or contests, have and exercise all the powers and authority, and be governed by the same rules and procedure, as may be prescribed for the senate in contested election or state officers, so far as applicable, and subject to the constitution and laws of the United States. In any order or vote by the commission, and in the final decision and judgment upon the contest, the governor shall vote if the other members of the commission are equally divided, and not otherwise. The judgment of such commission or the majority upon the contest or contests at any election of electors of president and vice-president of the United States, shall be final and conclusive thereof, and the record of the judgment and proceedings shall be filed and kept by the secretary of state in his office. [85 v. 26.]

Powers of and rules governing commission.

When governor shall vote: judgments and records of commission.

SEC. 2970d. If any contestee or contestees be ousted by the judgment of such commission or the majority of them, the certificate of election so issued to him or them shall be null and void, and the governor shall forthwith make and transmit by mail to the person or persons, if any, ascertained and determined by the judgment of the commission, or a majority of them, to have been duly elected, a certificate of his or their election to the said office of elector or electors of president and vice-president of the United States, and shall cause notice of his or their election and of such judgment to be proclaimed and published and [as] prescribed in section 2970. [85 v. 26.]

Proceedings under judgment of ouster.

SEC. 2970e. The commission shall render judgment against the party failing in any such contest for all the costs, including the costs of all depositions filed and allowed; and execution for the same shall be issued to any sheriff in the state and levied and collected as upon judgment and execution at law. Security for costs, satisfactory to the secretary of state, shall be given by the contestee or contestees before any notice of the contest shall be issued by him. [85 v. 26.]

Costs.

SEC. 2971. The electors chosen as aforesaid shall, at twelve o'clock on the day appointed by the congress of the United States, meet at the state house in Columbus, and then and there perform the duties enjoined upon them by the constitution and laws of the United States. [29 v. 41, § 6.]

The electors meet at Columbus.

SEC. 2972. Each elector shall, before the hour of twelve o'clock on the day next preceding the day fixed by the law of congress to elect a president and vice-president of the United States, give notice to the governor that he is present, and ready at the proper time to perform the duties of an elector; and the governor shall thereupon deliver to each such elector a certificate of the names of all the electors. [29 v. 41, § 8.]

Electors to give notice to the governor of their presence.

How vacancies
in the office
of elector to
be filled.

SEC. 2973. If any of the electors are absent, and fail to appear before nine o'clock on the morning of the day appointed for the election, the electors then present shall immediately proceed to elect by ballot in the presence of the governor, persons to fill the vacancies occurring through such nonattendance. [29 v. 41, § 8.]

Tie votes to
be determined
by the gover-
nor by lot.

SEC. 2974. If two or more persons receive an equal and the greatest number of votes at such election, the governor, in the presence of the electors attending shall determine by lot which of such persons is duly elected; otherwise he or they having the greatest number of votes shall be considered elected to such vacancies. [29 v. 41, § 9.]

Electors so
chosen to be
notified by
the governor
and to act as
electors.

SEC. 2975. The electors making such choice shall forthwith certify to the governor the names of the persons so chosen, and the governor shall cause immediate notice in writing to be given to each of such persons; and the persons so chosen and notified, and not the persons in whose place they have been chosen, shall be electors, and shall meet the other electors at the time and place appointed, and then and there discharge all the duties enjoined on them as electors by the constitution and laws of the United States and of this state. [29 v. 41, § 10.]

Compensation
of electors
and how paid.

SEC. 2976. Each elector shall receive three dollars for each day's attendance at Columbus as such, and mileage at the rate of ten cents per mile for the estimated distance by the usual route, from his place of residence to Columbus, to be paid by the state. [70 v. 272, § 1.]

Commissions
and certifi-
cates of elec-
tion of
officers.

SEC. 83. Each judge of the supreme court, circuit court, court of common pleas and probate court, state officer, county officer, militia officer and justice of the peace, and each officer whose office is created by law, and not otherwise provided for, shall be ineligible to perform any of the duties pertaining to such office until he shall receive from the governor a commission to fill such office, upon producing to the proper officer or authority a legal certificate of his being duly elected or appointed; and each of the officers above named, except militia officers and notaries public, who receives for the discharge of his official duties any fee, compensation or salary shall, before he shall be entitled to receive such commission pay to the secretary of state for the making out, recording and forwarding thereof a fee of five dollars, excepting each justice of the peace, who shall pay two dollars; and as soon after any election for any of the offices above named as the result shall have become officially known to them, the deputy state supervisors of election of each county in this state shall, upon payment to them by each such officer of the fee above described, immediately forward by mail to the secretary of state a certificate of election of each such office,

Fees.

together with the fee paid to them by such officer, which fee shall be covered into the state treasury for the use of the general revenue fund, and thereupon the governor, upon the filing of such certificate with the secretary of state, accompanied with the fee aforesaid, shall issue the proper commission to such officer and forward the same to the clerk of the court of common pleas, who shall deliver the same to such officer. [97 v. 185.]

TOWNSHIP LOCAL OPTION.

(4364-24.) SEC. 1. That whenever one-fourth of the qualified electors of any township, residing outside of any municipal incorporation, shall petition the trustees therefor for the privilege to determine by ballot whether the sale of intoxicating liquors as a beverage shall be prohibited within the limits of such township, and without the limits of any such municipal corporation, such trustees shall order a special election for the purpose, to be held at the usual place or places for holding township elections; and notice shall be given and the election conducted in all respects as provided by law for the election of township trustees; and only those electors shall be entitled to vote at such election who reside within the township and without the limits of any such municipal incorporation. A record of the result of such election shall be kept by the township clerk in the record of the proceedings of township trustees; and in all trials for violation of this act, the original entry of said record, or a copy thereof certified by the township clerk, provided that it shows or states that a majority was against the sale, shall be prima facie evidence that the selling, furnishing, giving away or keeping a place, if it took place from and after thirty days from the day of the holding of said election was then and there prohibited and unlawful. [85 v. 55.]

Petition for prohibition of liquor traffic in townships.

Special election to be held.

Notice and conduct of election.

Record of result of election; its value as evidence.

The act entitled "An act to further provide against the evils resulting from the traffic in intoxicating liquors by local option in any township in the State of Ohio," passed March 3, 1888, is not in conflict with the constitution, and is a valid law.

Gordon v. State, 46 O. S. 607.

Where a township local option election is held in a township composed of two voting precincts, in one of which a municipal corporation is situate, the regular judges and clerks in each of the precincts should preside at and conduct such election, notwithstanding the fact that one or more of the judges in one of the precincts may reside within the limits of the incorporated village. At such election only those voters residing within the township and outside the limits of the municipal corporation are entitled to vote. L. 2-15-04.

It is the duty of the deputy state supervisors of elections to prepare ballots for use at a local option election within a township. The ballots should be printed upon the quality of paper prescribed by the ballot laws. The regular judges and clerks of election in the proper precincts must conduct such special elections. L. 2-20-05.

None but resident voters are entitled to vote at a special election under the township local option act. Whether a person is a qualified elector of the township or not depends upon the question of fact and intention. Persons who are within the township for temporary purposes only are not entitled to vote therein. L. 10-19-06.

Ballots to be
voted at such
election.

When the
traffic in any
township shall
be unlawful.

Penalty for
carrying on
such prohibited
traffic.

Manufacture
and sale of
cider or na-
tive wine;
registered
druggists.

(4364-25.) SEC. 2. Persons voting at any election held under the provisions of this act, who are opposed to the sale of intoxicating liquors as a beverage shall have written or printed on their ballots, "Against the sale;" and those who favor the sale of such liquors shall have written or printed on their ballots, "For the sale;" and if a majority of the votes cast at such election shall be "Against the sale," then from and after thirty days from the day of the holding of said election, it shall be unlawful for any person within the limits of such township and without the limits of such municipal corporation to sell, furnish or give away any intoxicating liquors to be used as a beverage, or to keep a place where such liquors are kept for sale, given away or furnished; and whoever sells, furnishes or gives away any intoxicating liquors as a beverage, or keeps a place where such liquors are kept for sale, given away or furnished, shall be fined not more than five hundred dollars, nor less than fifty dollars, and imprisoned in the county jail not exceeding six months; but nothing in this section shall be construed so as to prevent the manufacture and sale of cider, or sale of wine manufactured from the pure juice of the grape, cultivated in this state, nor to prevent [a] legally registered druggist from selling or furnishing pure wines or liquors for exclusively known medicinal, art, scientific, mechanical, or sacramental purpose; but this provision shall not be construed to authorize the keeping of a place where wine, cider or other intoxicating liquors are sold, kept for sale, furnished or given away as a beverage. [85 v. 55.]

MUNICIPAL LOCAL OPTION.

Closing of
saloons on
Sunday.

SEC. 4364-20. That the sale of intoxicating liquors, whether distilled, malt or vinous, on the first day of the week, commonly called Sunday, except by a regular druggist on a written prescription of a regular practicing physician for medical purposes only, is hereby declared to be unlawful and all places where such intoxicating liquors are on other days sold or exposed for sale, except regular drug stores, shall on that day be closed, and whoever makes any such sales, or allows any such place to be open or remain open on that day shall be fined in any sum not exceeding one hundred dollars and not less than twenty-five dollars for the first offense, and for each subsequent offense shall be fined not more than two hundred dollars or be imprisoned in the county jail or city prison not less than

ten days and not exceeding thirty days, or both. In regular hotels and eating houses the word "place" herein used shall be held to mean the room or part of room where such liquors are usually sold or exposed for sale and the keeping of such a room or part of room securely closed shall be held, as to such hotels and eating houses as a closing of the place, within the meaning of this section. And any municipal corporation shall have full power to regulate the selling, furnishing or giving away of intoxicating liquors as a beverage and places where intoxicating liquors are sold, furnished or given away as a beverage, except as provided for in section 4364-20c of this act. [95 v. 87.]

Hotels and
eating houses.

Municipal
regulation.

As to the constitutionality of the Beal Law see *Lloyd v. Dolison*, R. C. C. (N. S.) 328.

As such election it is the duty of the judges and clerks of election in each precinct, at least one day before the election, to appoint and make public two known representatives of each side of a question to be submitted as challengers, and also at the same time to appoint and make public one known representative of each side of the question to be submitted as inspectors. L. 12-1-05.

SEC. 4364-20a. That whenever forty per cent. of the qualified electors of any municipal corporation shall petition the council thereof for the privilege to determine by ballot whether the sale of intoxicating liquors as a beverage shall be prohibited within the limits of such municipal corporation, such council shall order a special election to be held in not less than twenty nor more than thirty days from the filing of such petition with the mayor of the municipal corporation or from the presentation of such petition to said council, which said petition shall be filed as a public document with the clerk of the municipality, and preserved for reference and inspection and which election shall be held at the usual place or places for holding municipal elections, and notice shall be given and the election conducted in all respects as provided by law for the election of members of the council of the corporation, so far as said law may be applicable. The result of such election shall forthwith be entered upon the record of the proceedings of the council of the corporation by the clerk thereof, and in all trials for violation of this act, the original entry of the record, or a copy thereof certified by the clerk of the corporation, provided that such record shows that a majority of the votes cast at said election was against the sale of intoxicating liquors as a beverage, shall be prima facie evidence that the selling, furnishing or giving away of intoxicating liquor as a beverage or the keeping of a place where such liquors are sold, kept for sale, given away or furnished, if such selling, furnishing or giving away or keeping such place occurred after thirty days from the day of holding the election, was then and there prohibited and unlawful. [95 v. 87.]

Petition for
election.

Special
election.

Notice and
conduct of
election.

Record of
result of
election; its
value as evi-
dence.

Section 4364-20a and 20b, Revised Statutes, which provide for an election in any municipality to determine whether or not the sale of intoxicating liquors as a beverage within the limits of such municipality shall be prohibited, prescribes punishment for violation of said act where such sales are so prohibited, apply to hamlets as they existed in this state prior to the adoption of the municipal code, October 22, 1902.

Carey v. State, 70 O. S. 121.

Failure to publish for a full period of ten days the mayor's proclamation of a special election to be held under Sections 4364-20a, Revised Statutes, et seq. (commonly called the Beal Local Option Election Law) is not fatal to the validity of the election, where the election was otherwise regularly held, knowledge of its approach was general throughout the municipality and a comparatively full vote was cast, and no attempt was made to deceive or mislead anyone, and it does not appear that any elector was either without knowledge thereof, kept from voting, or failed to vote on account of the failure to give ten days' notice publication of notice for ten days, under such circumstances, is not jurisdictional and failure to publish it for the full period is a mere irregularity which does not invalidate the election.

Fike v. State, 4 C. C. (N. S.) 81.

But where the record shows that a petition for an election under the Beal Law was presented to council, and that body took action by appointing a committee to investigate the matter, and the report of the committee was to the effect that more than forty per cent. of the voters had signed the petition, and this report was adopted, and by a unanimous vote of council an election was ordered and held, the fact that there was no formal finding that forty per cent. of the voters had signed the petition, an objection that there was in substance a vote, no finding by council of the jurisdictional fact, does not go to the essence of the matter, but is technical, and will not lie.

In re. Huntsville, v. 1 C. C. (N. S.) 489.

Authorized jurisdiction is a condition precedent to the ordering by council of a vote under Beal Municipal Local Option Law, and such jurisdiction must affirmatively appear in the record.

In re. Huntsville, v. 1 C. C. (N. S.) 489.

Where two voters, one blind and the other infirm through extreme age remained in a carriage outside the polls and marked their ballots in the presence and under the direction of two of the election judges, and such ballots were then deposited by the judges, such irregularity will not invalidate these votes.

In re. Contest South Charleston election, 3 N. P. (N. S.) 373.

The presumption is that a petition for an election under the Beal Local Option Law, in due and legal form and signed by forty per cent. of the qualified electors of the municipality, was presented to council as required by Section 4364-20a, Revised Statutes, when it appears from the council record that a petition was presented asking for an election, when it was duly acted upon, and that an election was ordered on a certain date.

Dalrymple v. State, 5 C. C. (N. S.) 185.

The fact that an election was held under the Beal Local Option Law, and also the result thereof, may be established by evidence other than the original entry on the records of the municipal council, or a copy thereof, certified by a corporation clerk as provided by section 4364-20a, Revised Statutes, which makes such record or certified copy prima facie evidence of such facts. Hence, the failure, of the clerk to record, in the proper way and place, the result as reported to him, does not invalidate the elec-

tion, if an election and the result thereof can be clearly established by other evidence.

Dalrymple v. State, 5 C. C. (N. S.) 185.

Where a duly and legally constituted legal body, such as a city or village council, has acted, the presumption is, in the absence of evidence to the contrary, that it has acted lawfully, and had before it sufficient facts to warrant it in acting. This presumption is in the nature of evidence and until overcome by other evidence it stands as proof of the fact in question.

Dalrymple v. State, 5 C. C. (N. S.) 185.

No particular form of notice to the deputy state supervisors is required for the holding of such elections. The law presumes that upon proper action taken by the officers of the municipality, the deputy state supervisors will perform the duties usually devolving upon them in the conduct of elections. L. 6-9-02.

Where a petition has been filed with the council of a municipal corporation under this section, and the council has delayed making the order for such election until such time as will prevent the filing of a certificate with the deputy state supervisors fifteen days before the election that fact should not operate to defeat the election. In such cases it is the duty of the deputy state supervisors to print ballots for such special election in accordance with the provisions of this act. The regular judges and clerks of election within the proper precincts are required to conduct such election and make return thereof to the clerk of the municipal corporation. L. 3-2-03.

Where an election is held under this section, it is the duty of the deputy state supervisors of the county in which such village is situated to furnish the ballots for such election, and it is the duty of the regular judges and clerks of election for such village to conduct such special election and make a return thereof to the clerk of the village. L. 1-2-06.

Where a special election is held in a village the regular judges and clerks of election whose terms are for one year from their appointment must preside at the precincts within such village at such special election. The ballots should be prepared by the deputy state supervisors of the county. L. 5-22-06.

The "usual voting place" within a precinct is the place established by the deputy state supervisors for general elections. The temporary location of a voting place for the purpose of a special election within a precinct would not be the "usual voting place" of such precinct. L. 9-14-06.

All that is necessary in a petition is that the party sign his name. It is not necessary to have either the street number or number of the house. T. 4-16-07.

The twenty days are counted from the date of filing the petition with the mayor, or from its presentation to the council. T. 5-18-07.

See note to 3909 as to special elections for school board.

SEC. 4364-20b. The ballots at any special election held under the provisions of this act, shall be printed with an affirmative and a negative statement, to-wit: "The sale of intoxicating liquors as a beverage shall be prohibited." "The sale of intoxicating liquors as a beverage shall not be prohibited," with a blank space on the left side of each statement in which to give each elector an opportunity to clearly designate his choice by a cross mark as follows:

- [.....] The sale of intoxicating liquors as a beverage shall be prohibited.
- [.....] The sale of intoxicating liquors as a beverage shall not be prohibited.

Ballots to be
voted at the
election.

When sale
shall be un-
lawful.

Penalty for
making such
prohibited
sale.

Manufacturers
may sell at
wholesale to
retail dealers.

And if a majority of the votes cast at such election shall be in favor of prohibiting the sale of intoxicating liquor as a beverage, then from and after thirty days from the date of holding said election it shall be unlawful for any person, personally or by agent, within the limits of such municipal corporation to sell, furnish or give away any intoxicating liquors to be used as a beverage, or to keep a place where such liquors are kept for sale, given away or furnished, for beverage purposes, and whoever from and after the thirty days aforesaid in any manner directly or indirectly, sells, furnishes, or gives away, or otherwise deals in any intoxicating liquors as a beverage, or keeps or uses a place, structure or vehicle, either permanent or transient for such selling, furnishing or giving away in which or from which intoxicating liquors are sold, given away or furnished or otherwise dealt in as aforesaid, shall be guilty of a misdemeanor, and shall on conviction thereof, be fined not more than two hundred dollars nor less than fifty dollars for the first offense, and shall for a second offense be fined not more than five hundred dollars nor less than one hundred dollars, and for any subsequent offense be fined not less than two hundred dollars and be imprisoned not more than sixty days and not less than ten days. But nothing contained in any of the sections of this act shall in any manner affect the right of any manufacturer of intoxicating liquors from the raw material, to sell, deliver and furnish his product in wholesale quantities to bona fide retail dealers trafficking in intoxicating liquors, or in wholesale quantities to any party or parties residing outside the limits of said municipality. [95 v. 88.]

A vote is the expression of a choice. A ballot is a written or printed slip of paper upon which a choice may or may not be indicated. Hence, ballots on which no choice is indicated are not votes and are not to be considered in determining what is a majority of all "votes" cast.

In re. Contest South Charleston election, 3 N. P. N. S. 373.

Where, in an election under the "Beal Law," the form of ballot used was the one prescribed for an election under the township local option law, but yet was sufficiently definite and precise to inform the voter and not to mislead him, such irregularity in the form of the ballot will not invalidate the election. The contestants of such an election having themselves used such ballot without objection may not be heard to complain of its form after the election is over.

In re. Contest South Charleston election, 3 N. P. N. S. 373.

In an election under the local option law no more formalities should be required than are actually necessary, and any form of ballot which has written or printed upon it the words "for the sale" or "against the sale" is sufficient.

Stick v. State, 3 C. C. (N. S.) 611.

SEC. 4364-20c. The phrase "intoxicating liquors" as used in this act shall be construed to mean any distilled, malt, vinous or any other intoxicating liquors; but nothing in this act shall be construed to prevent the selling of intoxicating liquors at retail by a regular druggist for exclusively known medicinal, pharmaceutical, scientific, mechanical or sacramental purposes; and when sold for medicinal purposes it shall be sold only in good faith upon written prescription issued, signed and dated in good faith by a reputable physician in active practice and the prescription used but once. The words "giving away" where they occur in this act shall not apply to the giving away of intoxicating liquors by a person in his private dwelling, unless such private dwelling is a place of public resort. [95 v. 89.]

Meaning of phrase "intoxicating liquors."

Regular druggist may sell.

SEC. 4364-20d. When any person, company or corporation has discontinued such traffic in accordance with the provisions of this act, within the time specified by section 4364-20a of this act, has paid or is charged upon the tax duplicate with an assessment upon such traffic, the county auditor, upon being satisfied upon such fact, shall issue to such person, company or corporation, a refunding order of an amount proportionate to the unexpired time for which said assessment has been paid. [95 v. 89.]

Rebate of Dow tax when sale discontinued.

SEC. 4364-20e. The petition for an election provided for in section 4364-20a of this act shall be deemed sufficient and the council shall order such an election when the petition is signed by as many qualified electors as shall equal in number forty per cent. of the number of votes cast in said municipal corporation at the last preceding general election in municipalities which are divided into wards; and in all other municipalities, forty per cent. of the qualified electors at the last preceding municipal election, and in indictments, affidavits, or informations for violation of this act it shall not be necessary to set forth the facts showing that the required number of electors in the municipal corporation petitioned for an election, that the election was held, or that the majority voted in favor of prohibiting the sale as herein provided. But it shall be sufficient to state that the act complained of was then and there prohibited and unlawful. [95 v. 90.]

What constitutes 40 per cent. of qualified voters."

Upon the presentation of a petition to the council for such an election (on the question of a surrender of municipal powers) it is the duty of the council before taking action thereon to satisfy itself that it contains the requisite number of qualified petitioners, and for that purpose may refer the same to a committee to make the necessary examination, and postpone action until time for such examination.

Dutton v. Hanover, 42 O. S. 215.

A petition for an election to determine whether the sale of intoxicating liquors as a beverage shall be sold within certain prescribed territory is fundamental and jurisdictional, and must substantially comply with the requirements of the law under which the election is to be held.

Newburg Election Contest, 3 N. P. N. S. 129.

In a petition for an election under the Beal Law in a municipality not having wards it is sufficient if a petition be signed by as many qualified electors as shall equal forty per cent of those who cast their votes at the last preceding election. It is not necessary that the petition contain the names of forty per cent. of those individuals who actually voted at such election, nor that it contain the names of forty per cent. of all those qualified to vote in the election district involved, at the time of the last preceding election.

In re. Contest South Charleston election, 3 N. P. N. S. 373.

It is the privilege of electors who petition for the Beal Law election to withdraw their names from the petition either with or without the consent of council at any time before the election is ordered; and where such withdrawals reduce the number of signatures remaining on the petition to less than the requisite forty per cent. of the qualified voters, jurisdiction of council to order an election is lost.

Haynes v. Village of Hillsboro, 3 N. P. N. S. 17

The petition is a public document, and can be inspected by any elector of the city, and such inspection may be obtained by mandamus. T. 5-18-07.

Entry and
record of
election.

SEC. 4364-20f. The following shall be deemed a sufficient entry and record of the result of an election held under the provisions of this act as required by sections 4364-20a and 4364-20b.

The State of Ohio, County of.....municipal corporation of.....

The special election held on theday of, A. D....., within and for the (municipal corporation of) under the local option law resulted as follows:

Whole number of votes "for the sale of intoxicating liquors as a beverage".....

Whole number of votes "against the sale of intoxicating liquors as a beverage".....

Clerk of.....

[95 v. 90.]

The three readings of the resolution of council prohibiting the sale or keeping of a place where intoxicating liquors are sold under the Beal Law, need not be on three different days.

Kumpf v. Village of Delhi, 1 N. P. N. S. 336.

Disposition
of fines.

SEC. 4364-20g. Money received from fines and forfeited bonds collected under the provisions of this act shall be paid into the treasury of the municipal corporation wherein said fine was imposed or bond forfeited, and shall be applied to such fund or funds as the council of the said corporation may direct. [95 v. 90.]

Under this section of the statute the mayor, it seems to us, had jurisdiction to order the fine to be paid to the village.

Capple v. State, O. L. R. Sept. 24, 1906.

Another elec-
tion may be
ordered;
when.

SEC. 4364-20h. At any time after two years from the date of an election held under the provisions of section 4364-20a of this act another election may be petitioned for

and shall be ordered as provided for in section 4364-20a. [95 v. 90.]

SEC. 4364-20i. Any person being a qualified elector of any municipal corporation wherein an election shall have been held as provided for in this act may contest the validity of such election by filing a petition duly verified with the probate court of the county in which said municipal corporation is situated, within ten days after the election, setting forth the grounds for contest.

Contest of
election in
probate court.

Where, in an election under the Beal Law, one hundred and sixty-six votes are cast in favor of the sale of intoxicating liquors as a beverage and one hundred and sixty-seven are cast against such sale, and it appears that one vote was cast by a person incompetent through imbecility, this vote, in the absence of evidence, showing for which proposition such vote was cast, must be deducted from the vote on the proposition having the greater number, and thus such election is rendered void for want of the expression of choice by a majority.

In re. Contest South Charleston election, 3 N. P. N. S. 373.

On a petition contesting an election under the "Beal Law" it is improper to introduce evidence except on points specially set out in the petition. Such petition may not be amended after the expiration of twenty days after the election.

In re. Contest South Charleston election, 3 N. P. N. S. 373.

NOTE. — A number of cases arising under the Brannock Local Option Law are given herein following the residence district municipal local option act.

The probate judge, upon the filing of such petition, shall forthwith issue a summons, addressed to the mayor of such municipal corporation, notifying him of the filing of such petition and directing him to appear in said court on behalf of said municipal corporation, at a time named in the summons, which time shall be not more than twenty days after the election nor less than five days after the filing of such petition.

Mayor shall
be summoned.

The probate judge shall have final jurisdiction to hear and determine the merits of the proceedings, and in other respects in the procedure of the hearing he shall be governed by the law providing for the contesting of an election of a justice of the peace so far as such law is applicable. The probate court shall require the person or persons contesting the election to furnish sufficient security for costs before said petition is filed. [95 v. 90.]

Method of
procedure.

SEC. 2. That section 4364-20 of the Revised Statutes of Ohio be and the same is hereby repealed, but an ordinance passed by a municipal corporation under the authority given in said section prohibiting places where intoxicating liquors are sold at retail shall remain in full force and effect until thirty days after an election has been held in accordance with the provisions of section 4364-20a of

Repeal and
saving clause
for ordi-
nances.

this act. An ordinance passed by a municipal corporation under the authority given in said section regulating places where intoxicating liquors are sold at retail, shall remain in full force and effect until said ordinance is repealed or amended under the authority granted in section 4364-20 of this act. [95 v. 89.]

RESIDENCE DISTRICT MUNICIPAL LOCAL OPTION.

Petition to prohibit sale of intoxicating liquor in residence district; filing and examination of.

Record of decision of mayor or judge; its value as evidence.

SECTION 1. Whenever a majority of the qualified electors of any residence district of any municipal corporation sign a petition in favor of prohibiting the sale of intoxicating liquors as a beverage in such residence district and file the petition with the mayor of the municipal corporation or with any judge of the court of common pleas of the county in which such municipal corporation is situated, the mayor or judge shall examine the petition at a public hearing and decide upon the sufficiency of the petition and cause a copy of his decision to be filed with the clerk of the municipal corporation or council. The decision of the mayor or judge, as certified to the clerk of the municipal corporation or council and recorded by him in the records of the council of the corporation, or a certified copy thereof, provided it shows that a majority of the voters of such residence district were in favor of prohibiting the sale of intoxicating liquors as a beverage, shall be prima facie evidence that the selling, furnishing or giving away of intoxicating liquors as a beverage or the keeping of a place where such liquors are sold, kept for sale, furnished or given away, if such selling, furnishing or giving away or keeping of such place occurred thirty days after the finding by said mayor or judge, was then and there prohibited and unlawful. [98 O. L. 68.]

Petition against prohibition of sale of intoxicating liquor in residence district; filing and examination of.

Record of decision of mayor or judge; its value as evidence.

SEC. 2. Whenever a majority of the qualified electors of any residence district of any municipal corporation in which the sale of intoxicating liquors as a beverage has been prohibited under the provisions of section one of this act, shall sign a petition against prohibiting the sale of intoxicating liquors as a beverage in the same residence district and file the petition with the mayor of the municipal corporation or with any judge of the court of common pleas in the county, the mayor or judge shall examine the petition at a public hearing and decide upon the sufficiency of the petition and cause a copy of his decision to be filed with the clerk of the municipal corporations or council. The result of such examination and the finding duly certified by the judge or mayor and recorded by the clerk of the municipal corporation or council in the records of the proceedings of the council of the corporation, provided that it shows that a majority of the voters of the residence district are opposed to prohibiting the sale of intoxicating liquors as a beverage, shall be prima facie evidence that the sale of

intoxicating liquor as a beverage in the residence district is not then and there prohibited. The petition provided for in this section shall not be filed until after two years or more shall have elapsed after the filing of the petition provided for in section one of this act. Nothing in this act shall be construed to affect or repeal any other law which prohibits the selling, furnishing or giving away of intoxicating liquor as a beverage, or the keeping of a place where intoxicating liquor is sold, furnished or given away as a beverage which is in force and effect throughout the municipal corporation. [98 O. L. 69.]

When such
petition may
be filed.

SEC. 3. A petition in favor of prohibiting the sale of intoxicating liquor as a beverage in a residence district substantially as follows shall be sufficient:

Form of
petition.

"A petition to prohibit the sale of intoxicating liquors as a beverage in a residence district of the municipal corporation of.....in the state of Ohio.

To..... Date.....

We, the undersigned, respectfully represent that we are qualified electors in the following residence district, to-wit:

.....
.....
in the municipal corporation of....., county of
....., state of Ohio, and that we are in favor
of prohibiting the sale of intoxicating liquors as a beverage
in said residence district."

A petition against prohibiting the sale of intoxicating liquors as a beverage in a residence district substantially as follows will be sufficient:

"A petition against prohibiting the sale of intoxicating liquors as a beverage in a residence district of the municipal corporation of.....of the state of Ohio.

To..... Date.....

We, the undersigned, respectfully represent that we are qualified electors in the following residence district, to-wit:

.....
.....
in the municipal corporation of....., in the
county of....., state of Ohio, and we are
opposed to prohibiting the sale of intoxicating liquors as a
beverage in said residence district."

Any qualified elector may authorize any person to sign the petition for him by a written power of attorney. No elector will be allowed to add his name to the petition after it is filed or withdraw his own or authorized signature from the petition unless he can prove to the mayor or judge that it was secured through fraud or misrepresentation. The petition provided for in this act shall be deemed sufficient when it is signed by as many qualified electors as equal a majority in number of the votes cast at the last regular municipal election in such residence district, but must in order

to be valid, be filed not later than three months after the signing thereto of the signature first in order of time. The expense incurred for the publication of notices for the hearing on the petition shall be paid out of the general revenue fund of the municipal corporation upon the order of the mayor or judge passing upon the petition. [98 O. L. 69.]

Public hearing for consideration of petition.

SEC. 4. When the petition referred to in this act has been filed with the mayor of the municipal corporation or with any judge of the court of common pleas in the county, the mayor or judge shall forthwith cause a notice of the hearing on such petition to be published in two newspapers of opposite party politics published in the municipal corporation, if there be two, which notice shall set forth the time when and place where the judge or mayor will consider the petition, at which time he shall hear any person or persons who are electors of the district as to the question of the petitioners being qualified electors in the residence district or any other matter which may be brought before the mayor or judge for determination relating to the sufficiency of the petition. The mayor or judge shall decide whether the petitioners are qualified electors in the residence district and equal in number a majority of the votes cast in the residence district at the last regular municipal election and the mayor shall make a record of his findings on his docket and the judge shall cause the same to be recorded in the records of his court, and thereupon such mayor or judge shall cause a certified copy or certificate of his findings together with the original petition to be filed with the clerk of the municipal corporation or council in not less than five days after such finding and not more than forty days from the filing of the petition with the mayor or judge.

Certificate of finding of mayor or judge.

The following shall be a sufficient certificate of the finding of the mayor or judge:

"This is to certify that I have examined the petition which is attached hereto, at a public hearing duly announced and hereby find that on the.....day of.....A. D.that the petition meets the requirements of the law and that a majority of the voters of the following residence district, to-wit:.....in the municipal corporation of.....county of.....state of Ohio, are (in favor of or opposed to) prohibiting the sale of intoxicating liquors as a beverage in said residence district."

Date

.....
Official Signature.

Recording of certificate.

The clerk of the municipal corporation in which the residence district is situated shall forthwith upon receiving the certificate of the decision of the sufficiency of the petition, record said petition with the said certificate of such decision on the records of the council of the municipal cor-

poration and shall certify to the correctness of the same substantially as follows:

"I hereby certify that the foregoing is a correct copy of the petition relating to the sale of intoxicating liquors as a beverage in the following residence district, to-wit:.....
....., in the municipal corporation of.....
and the finding of the mayor or judge on the petition."

.....
Official Signature.

Whoever bribes, boycotts or intimidates or attempts to bribe, boycott or intimidate any qualified elector to keep such elector from signing the petition or to secure the signature of such elector to the petition provided for in this act; or whoever removes any person in his employ or threatens to remove any person in his employ or under his control, either directly or indirectly, in order to secure his signature to such petition, or to keep such person from signing such petition, shall be guilty of a misdemeanor and shall be fined not less than \$100, nor more than \$500, and the signature of any person secured to such petition by bribery, boycott or intimidation shall be stricken from such petition. [98 O. L. 70.]

Bribery and
intimidation;
penalty.

SEC. 5. If the findings of the mayor or judge or a copy as recorded by the clerk of the municipal corporation or council on the records of the council shows that a majority of the qualified electors in the residence district named are in favor of prohibiting the sale of intoxicating liquors as a beverage, then, from and after thirty days from the date of such finding by the mayor or judge it shall be unlawful for any person, personally or by agent within the limits of such residence district of such municipal corporation to sell, furnish or give away any intoxicating liquors to be used as a beverage, or to keep a place where such intoxicating liquors are kept for sale, given away or furnished for beverage purposes, and whoever from and after thirty days aforesaid in any manner whatever, directly or indirectly, sells, furnishes or gives away, or otherwise disposes of any intoxicating liquors as a beverage, or keeps or uses a place, structure or vehicle, whether permanent or transient for such selling, furnishing or giving away or in which or from which intoxicating liquors are sold, furnished or given away or otherwise disposed of as aforesaid, or violates any of the provisions of this act shall be guilty of a misdemeanor and shall on conviction thereof be fined not more than two hundred dollars nor less than fifty dollars for the first offense; and shall for any subsequent offense be fined not more than five hundred dollars, nor less than two hundred dollars. The court on any conviction for a second or subsequent offense shall order the place where such liquor is sold, furnished or given away for beverage purposes to be abated as a nuisance and shall order the person con-

When the sale
in a residence
district shall
be unlawful.

Penalty for
making such
prohibited
sale.

victed for [such] subsequent offense to give bond payable to the state of Ohio in the sum of one thousand dollars with sureties to the acceptance of the court that he will not sell, furnish or give away intoxicating liquor as a beverage in such residence district in violation of law. [98 O. L. 71.]

What territory controlled by result of action.

SEC. 6. The territory enclosed by the boundary of any residence district within which the sale of intoxicating liquors has been prohibited, as provided for in section one of this act, shall be controlled by the result of such action, and the law shall remain in full force and effect in said residence district for two years and thereafter until another petition is presented under the provisions of section two of this act in said residence district; and after a petition against prohibiting the sale of intoxicating liquors has been presented and held sufficient by the judge or mayor, another petition cannot be presented for two years thereafter. [98 O. L. 72.]

Meaning of phrase "intoxicating liquor."

Regular druggists.

SEC. 7. The phrase "intoxicating liquor" as used in this act shall be construed to mean any distilled, malt, vinous or any intoxicating liquor, by whatever name the same may be known, but nothing in this act shall be construed to prevent the selling of intoxicating liquors at retail by a regular druggist for exclusively known medicinal, mechanical, pharmaceutical, scientific or sacramental purpose; and when sold for medicinal purposes shall be sold only in good faith upon a written prescription issued, signed and dated in good faith by a reputable physician in active practice and the prescription used but once. Such prescription shall contain the name of the party for whom the liquor is prescribed, and direction for its use. The words "giving away" where they occur in this act shall not apply to the giving away of intoxicating liquors by any person in his private dwelling unless such private dwelling is a place of public resort. And nothing contained in any of the sections of this act shall in any manner affect the right of any manufacturer of intoxicating liquors from the raw material, to sell, deliver and furnish his product in wholesale quantities to bona fide retail dealers trafficking in intoxicating liquors or in wholesale quantities to any party or parties residing outside the limits of said district, nor of any bona fide wholesale dealer in said district to sell or deliver intoxicating liquors in wholesale quantities to customers of such district, or to bona fide residences in such district.

Manufacturer may sell at wholesale to retail dealers.

Meaning of term "qualified elector."

The original petitions and findings of the mayor or judge shall be filed with the clerk of the municipal corporation or council as a public document. The term "qualified elector" as used in this act means registered male voters in all municipal corporations which have registered and all other male voters entitled to register who have been bona fide residents of the district for four months before such petition is filed with the mayor or judge. In municipalities

which do not have registration, such male voter or male qualified elector must be a bona fide resident of the district for four months before such petition is filed with the mayor or judge.

The phrase "residence district" as used in this act, shall be construed to mean any clearly described, contiguous, compact section or territory in a municipal corporation; bounded by street, corporation or other well recognized lines or boundaries and containing not fewer than three hundred qualified electors, nor more than five thousand qualified electors; and such district shall not contain any block in which one-half or more of the foot frontage of such block is occupied by buildings and premises actually devoted to commercial, manufacturing, mercantile or other business purposes not including saloons; and further, such district shall not contain the property or premises abutting on a section of a street lying between two consecutive cross or intersecting streets, from street to street, or extending for a distance of not less than five hundred feet along such street on which said premises abut, whenever sixty-five per cent. of the foot frontage of such abutting property on each side of such street is occupied for and devoted to manufacturing, mercantile or other business purposes, not including saloons, if such section of such street is in the central or main business part of the municipal corporation; provided, however, that in determining the total foot frontage referred to herein, property occupied by saloons shall not be counted as either business or residence property. Whenever a section of a street is made exempt from the provisions of this act, lot lines may be used in outlining the boundary of the district to exempt the property facing on such section of such street.

Meaning of
phrase "residence
district."

Parks in residence districts and property devoted to educational, religious or charitable uses, shall for the purpose of this act, be held to be occupied for residence purposes; while public property devoted to other than the above specified uses, shall, for like purposes, be deemed to be occupied for business purposes. Buildings which have more than one-half of the floor space of the buildings used for residence purposes shall be counted as residence property. When but one side of said portion of said street is adaptable for residence or business purposes, then such side of such portion of such street shall determine whether the property abutting on both sides of such street be counted as business or residence property. The maximum length of a residence district shall not exceed three times its maximum width unless the boundaries of the municipal corporation or exempted territory prevents the district from containing the requisite number of voters. In such case the boundaries shall follow the proportionate length and breadth provided herein as nearly as possible.

Meaning of terms "block" and "saloon."

The term "block" shall be construed to mean the territory bounded by four well recognized adjacent streets and not alleys. The term "saloon" shall mean any place where intoxicating liquor is sold or trafficked in as a beverage. [98 O. L. 72.]

Sufficiency of indictments under this act.

SEC. 8. In indictments, informations or affidavits for violations of this act, it shall not be necessary to set forth the facts showing that the required number of electors in any residence district of a municipal corporation signed a petition in favor of prohibiting the sale of intoxicating liquors or that there was a public hearing or that any finding was made upon such petition or that a certificate of such findings with the petition was transmitted to the clerk or a record made of it by the clerk, as hereinbefore provided; but, it shall be sufficient to state that the act complained of was then and there in the residence district named prohibited and unlawful. [98 O. L. 73.]

Rebate of Dow tax when sale discontinued.

SEC. 9. When any person, company or corporation engaged in the traffic has discontinued such traffic within the time specified by section one of this act and has paid or is charged upon the tax duplicate with an assessment upon such traffic, the county auditor, upon being satisfied of such facts shall issue to such person, company or corporation a refunding order of an amount proportionate to the unexpired time for which said assessment has been paid or is charged. [98 O. L. 74.]

Disposition of fines collected.

SEC. 10. Money received from fines and forfeited bonds collected under the provisions of this act, shall be paid into the treasury of the municipal corporation wherein such fine was imposed or bond forfeited, and shall be applied to such purposes as the council thereof may direct. [98 O. L. 74.]

Former residence district local option law.

SEC. 11. In all residence districts where the sale of intoxicating liquor has been prohibited under the provisions of the act entitled "An act further to provide against the evils resulting from the traffic in intoxicating liquors by providing for local option in residence districts of municipal corporations," passed April 18, 1904 (97 O. L. 87), such law thus prohibiting the sale of intoxicating liquors as a beverage shall remain in full force and effect in such residence district for two years from the date of the local option election held and thereafter until a petition has been presented to the mayor or judge as provided for in section one or two of this act. [98 O. L. 74.]

Proceedings in error.

SEC. 12. Any person being a qualified elector of any residence district of any municipal corporation wherein a petition shall have been presented and held sufficient by a mayor or judge as provided for in this act may prosecute error from such finding by first filing a motion for leave to file a petition in error with the circuit court of the county

in which such residence district is situated. The motion shall not be granted unless for good cause shown. If such motion is granted, a petition in error shall be filed within fifteen days after the finding or decision of the mayor or judge setting forth the errors complained of. The circuit court upon the filing of such petition shall forthwith issue a summons addressed to the mayor of such municipal corporation notifying him of the filing of the petition in error and directing him to appear in said court on behalf of said residence district at the time mentioned in the summons which time shall not be more than thirty days after the finding or decision of the mayor or judge nor less than ten days after the filing of such petition. The circuit court shall have final jurisdiction to hear and determine the merits of the proceedings and there shall be no appeal or error proceedings allowed from such decision. The circuit court shall require the person or persons prosecuting error from the finding or decision of the mayor or judge to furnish security for costs before such petition is filed. Any qualified elector in such residence district may appear in person or by attorney at such hearing before the circuit court or on the motion for leave to file petition in error in defense of the validity of the proceedings before the mayor or judge taking action upon the petition.

SEC. 13. That the act entitled "An act further to provide against the evils resulting from the traffic in intoxicating liquors by providing for local option in residence districts of municipal corporations," passed April 18, 1904, and approved April 19, 1904 (97 O. L., p. 87), be and the same is hereby repealed when this act goes into effect. [98 O. L. 75.]

It is quite true that persons, before the mayor, or judge have acted may add their names to, or withdraw their names from the petition. *Dutton v. Hanover*, 42 O. S. 215. The adding of names to the petition after filing, if the petition already contains the requisite forty per cent. of the signatures would not in law have any effect whatever. If a sufficient number withdraw their names to reduce the percentage below the required forty per cent., the petition would, of course, have to be dismissed, and I take it that the reason for not allowing persons to withdraw their names after action has been taken, is that they are estopped. They have sinned away their day of grace, they did not speak when they ought to have spoken, and will not afterwards be heard to speak.

Cole v. City of Columbus, 2 N. P. N. S. 563.

The authorities justify the conclusion that the plaintiff has a right to inspect the petition which is the basis of an election now pending: (1) Because he is a citizen and elector in the local option district. (2) Because he is a petitioner. A citizen and elector is interested in the cause of the election, in the fact that an election is pending, and in its results. He has a vote, has the right to contest, or if someone else contests, he may defend the election. Upon all of these subjects his right to be informed is important. The fact of his being a petitioner, in a qualified sense, a party, gives emphasis to his right of inspection.

Krickenberg v. Wilson, 15 dec. 779.

The provision of the Brannock Law that the common pleas judge shall order a special election to be held in not less than twenty days nor more than thirty days from the filing of such petition is directory and not mandatory. The objects of the petition might clearly be defeated by lengthening hearings which could be continued at great length as an excuse for defeating the objects of the act.

In re. petition for election in Dayton, 2 N. P. N. S. 245.

It is not necessary that a petition for the contest of an election under the Brannock Law should be signed by the petitioner; and the requirement as to verification is complied with, where the petition is sworn to by the petitioner before an officer duly authorized to administer the oath.

Short v. City of Cincinnati, 3 N. P. N. S. 117.

The contest of an election under the provisions of what is peculiarly known as the Brannock Local Option Law, is virtually an action inter partes that the mayor of the municipality in which such election was held appearing to defend its validity; and the burden of proof is upon the contestor to show the existence of fatal irregularities therein.

In re. Ammer, 3 N. P. N. S. 329.

A petition for an election under the Brannock Law may be withdrawn, and the boundaries of the proposed district changed, and the petition refiled; and it is immaterial if, in refiled, the old sheets are used, without having the signers write their names, provided only that the signers assent to the change in the boundaries, and constitute forty per cent of the electors of the district so changed.

State v. Glackin, 3 N. P. N. S. 356.

Upon the determination by the common pleas judge as to whether the necessary per cent of the electors have petitioned for an election under the Brannock Law, it is competent for qualified electors who did not sign the original petition to join in the application by filing a duplicate application.

In re. petition for special election in Toledo 14 dec. 698.

Orders made by judges for elections under the Brannock Law are merely ministerial and not judgments of the court, and hence may be reviewed by an associate judge notwithstanding a rule against the review of the judgments of associate judges.

Fulton v. City of Columbus, 4 N. P. N. S. 358.

A person desiring to contest the result of an election must bring himself strictly within the remedies provided therefor by statute.

In re. petition Gorey 49 Bulletin, 490.

SCHOOL ELECTIONS.

SEC. 2. All elections for school directors, members of boards of education and school councils provided for by any general or special laws of the state shall likewise be held on the first Tuesday after the first Monday in November, and the terms of all such officers respectively, shall begin on the first Monday in January after their election. And all such officers now holding office and hereafter elected shall hold their offices until their successors are elected and qualified. [97 v. 40.]

School officers, election and beginning of term.

(3970-10) SEC. 1. The election of members of board of education shall be governed and controlled by the general election laws of the state. There shall be separate poll-books and tally-sheets used for all elections for school purposes, and the ballots of the electors at said elections shall be deposited in a separate ballot-box. In city school districts the ballots for each subdistrict shall contain the names of the candidates for member of the board of education from such subdistrict and also the names of the candidates to be elected at large. Returns of all school elections shall be made to the clerk of the board of education not less than five days after the election, and it shall be the duty of the board of education to canvass said returns at a meeting to be held on the second Monday after the election, and the result thereof shall be entered upon the records of the board; in case of a tie vote, the same shall be decided by said board of education, by lot. [97 v. 354.]

General election laws to govern in school elections.

It is the duty of the deputy state supervisors of the county to furnish separate ballots for candidates for members of the board of education for each school district of the county. Where such ballots are provided by the election officers, written or printed ballots other than those furnished by the board would be illegal and should be rejected by the judges of election. L. 10-27-04.

(3970-10) SECTION 1. That the names of all the candidates for members of the board of education of any school district in the state of Ohio, however nominated, shall be placed on one independent and separate ballot, without any designation whatever, except for member of board of education, and the number of members to be elected.

Ballots for election of members of board of education.

A cross shall be placed at the left of the name of each candidate for whom the elector desires to vote. The person having the highest number of votes shall be declared elected a member of the board of education, and the next highest, and so on until the number of members required to be elected shall have been selected from the number having the highest number of votes.

Marking of ballot.

Declaration of result.

SECTION 2. The ballots shall be printed and prepared as follows: The whole number of ballots to be printed for the school district shall be divided by the number of candi-

Printing and preparation of ballots.

dates for member of board of education of the school district, and the quotient so obtained shall be the number of ballots in each series of ballots to be printed as follows: The names of candidates shall be arranged in alphabetical order and the first series of ballots printed. Then the first name shall be placed last and the next series printed, and so shall the process be repeated until each name shall have been first. These ballots shall then be combined in tablets with no two of the same order of names together, except when there is but one candidate. [98 O. L., 116.]

Publication of
notice of
school
elections.

(3970-11) SEC. 2. The clerk of each board of education shall publish a notice of all school elections in a newspaper of general circulation in the district, or post written or printed notices of said elections in five public places in the district, at least ten days before the holding of the same, which notices shall specify the time and place of such election and the number of members of the board of education to be elected and the term for which they are to be elected, or the nature of the question to be voted upon. [97 v. 354.]

Women may
vote and be
voted for at
certain school
elections.

(3970-12) SEC. 3. Every woman born in the United States, or who is a wife or daughter of a citizen of the United States, who is over twenty-one years of age and possesses the necessary qualifications in regard to residence, as is provided for men, shall be entitled to vote, and to be voted for, for member of the board of education and upon no other question. The law relating to registration shall apply to women upon whom the right to vote is conferred, but the names of such women may be placed on a separate list. [97 v. 354.]

Registration.

As to constitutionality of act conferring upon women the right to vote and be voted for at any school election etc., see State ex rel. v. Board of Elections 9 C. C. 134, affirmed in 54 O. S. 631.

CITY SCHOOL DISTRICTS.

Board of
education in
city districts;
how consti-
tuted and
elected.

SEC. 3897. In city school districts the board of education shall consist of not less than two members nor more than seven members elected at large, by the qualified electors of the school district, and of not less than two members nor more than thirty members elected from subdistricts by the qualified electors of their respective subdistricts; provided that in city school districts which at the last preceding federal census contained a population of less than fifty thousand persons, the board of education shall consist of not less than three members nor more than seven members elected at large, by the qualified electors of such city school districts.

Not later than the first day of July next, after the passage of this act, the present city school board, board of education, school council or other city school legislative body, shall pass a resolution fixing, within the limits prescribed by this act, the number of members of said board

of education to be elected at large, and in city school districts where there are members of the board of education to be elected from subdistricts, they shall also, at the same time, fix the number of members of the board of education to be elected by such city subdistricts. The said city school board, board of education, school council or other city school legislative body, in city school districts where there are members of the board of education to be elected from subdistricts, shall, at the same time, to-wit: Before the first day of July next, after the passage of this act, subdivide said city school district into subdistricts equal in number to the number of members of the board of education in said city school districts who are to be elected from subdistricts therein established.

Said subdistricts shall be bounded as far as practicable by corporation lines, streets, alleys, avenues, public grounds, canals, watercourses, ward boundaries, voting precinct boundaries or present school district boundaries, and shall be as nearly equal in population as possible, and shall be composed of adjacent and as compact territory as possible. The lines of said subdistricts so fixed shall not be changed until after each succeeding federal census.

Within three months after the official announcement of the result of each succeeding federal census the board of education of each city school district shall redistrict the said city school district into subdistricts in accordance with the provisions of this act.

If the city school board of education, school council, or other city school legislative body shall fail to district or redistrict said city school district as herein required, at the time or times herein specified, then and in that event, upon the application of the president of the board of education, the state commissioner of common schools shall, subject to the requirements of this act, forthwith district, or redistrict said city school districts.

Provided also, that school subdistricts shall be numbered from one up, consecutively, and that at the first election for members of the board of education held after the passage of this act, the members to be elected to the board of education from subdistricts of odd numbers beginning with one, shall be elected for two years, and those elected from subdistricts of even numbers shall be elected for four years, and at the expiration of their respective terms their successors shall be elected for a term of four years; and provided further, that at the said first election the members of the board of education at large in all city school districts shall be elected for terms as follows:

If there be but two members of the board of education elected at large, one shall be elected for two years and one for four years, and if there be more than two, and the number thereof divisible by two, the one-half of such board shall be elected for two years and one-half for four years

but if the whole number of members elected at large be not divisible by two, then the number to be elected for two years shall be the quotient obtained by dividing the whole number to be elected at large, less one, by two, and the remaining members shall be elected for four years.

At the expiration of their respective terms their successors shall be elected for four years. Members elected at large must be electors of the city school district, and members elected from subdistricts must be electors of the city subdistricts from which they are chosen, or of the territory attached to the subdistrict for school purposes; a removal from said subdistricts; territory or city school district shall vacate said office.

The number of members of the board of education shall not be changed, except at the time of the redistricting herein provided for, within three months after the official announcement of the result of the federal census.

All members of boards of education of city school districts, herein provided for shall be elected at the same time and in the same manner as municipal officers are elected. [97 v. 338.]

Organization
of city board.

Nomination
of candidates
for member
of board.

SEC. 3897a. Boards of education in city school districts shall organize one the first Monday in January after the election held for members of the board of education by the election of one of their members as president and the election of a clerk, who may or may not be a member of the board, the president to be elected for one year and the clerk to be elected for a term not to exceed two years; they shall fix the time of holding regular meetings. Upon the organization of the first boards of education elected under this act, the previously existing board of education are thereby abolished and said newly elected boards shall be their successors in all respects. Not less than fifteen days before the election of members of boards of education, nominations of candidates therefor may be made by nomination papers, signed in the aggregate for each candidate by not less than twenty-five qualified electors of either sex of the school district except that in city school districts such nomination papers shall be signed by petitioners not less in number than one for every one hundred persons who voted at the next preceding general election in such city; and whenever each of such candidates shall be so nominated and his or their names shall be presented to the county board of deputy state supervisors of elections of the county in which such district is situated not less than fifteen days prior to the ensuing election, the said board of deputy state supervisors of election shall publish on two different days prior to such election the names of such candidates in two newspapers of opposite politics in the school district, if there be such printed and published therein, or, if no newspaper is printed therein, by posting

such list of names in at least five public places in the school district. [97 v. 340.]

Sec. 3898. When territory is attached to a city school district for school purposes, it shall be the duty of the board of education to assign such territory to the subdistrict or subdistricts adjoining the same, and a map showing such assignment shall be made a part of the record of the board; the electors residing in said attached territory shall be entitled to vote for school officers and on all school questions in the subdistricts to which they are assigned, and in the election precinct nearest their residence; and in case the board fails to perform this duty, the electors residing in said attached territory, shall be entitled to vote in the subdistrict and precinct nearest their residence. An elector residing in the city, but not in the city school district, shall not be entitled to vote in said city school district. [97 v. 340.]

Where elector residing in territory attached to city for school purposes entitled to vote on school questions.

Sec. 3900. The redistricting of a city school district shall not affect the membership of the then existing board of education in said city school district; all the members thereof shall continue to serve for the full term for which they were elected, but after the expiration of said terms the election of members of the board of education from subdistricts shall be by the subdistricts as redistricted. [97 v. 341.]

Redistricting of city school district shall not affect the then existing board.

VILLAGE SCHOOL DISTRICTS.

Sec. 3908. The board of education of village school districts shall consist of five members elected at large at the same time and in the same manner as municipal officers are elected, for the term of four years from the first Monday in January after their election or until their successors are elected and qualified. At the first municipal election held after the passage of this act there shall be a board of education elected in all village districts as provided for herein. two to serve for two years, and three to serve for four years, and at the municipal election held every second year thereafter, their successors shall be elected for the term of four years. Upon the organization of said boards, upon the succeeding first Monday in January after their election, the previously existing village boards of education shall be thereby abolished and the newly elected and organized board shall be their successors in all respects. [97 v. 341.]

Board of education in village districts, how constituted and elected.

Sec. 3909. In all incorporated villages not now organized as school districts and in all villages hereafter created, there shall be a board of education elected as provided for in section 3908 of the Revised Statutes of Ohio; provided, however, that if said election be a special election held in a newly created village, the members elected shall serve for the terms as indicated in said section 3908, from the first Monday in January after the last preceding election for members

Election of board in village not now organized as school district or in newly created village.

of boards of education; and the board shall organize on the second Monday after the special election. [97 v. 341.]

A special election for members of the board of education of a village district in a newly incorporated village cannot be held at the same time and place designated by council for the holding of a special election under the Beal Law. The latter act requires the election under the Beal law to be a special one, and the ballot used is such that it is impractical to hold an election of officers at the same time. L. 4-2; 05.

Where elector residing in territory attached to village for school purposes entitled to vote on school questions.

Sec. 3910. Electors residing in territory attached to a village school district for school purposes, shall be entitled to vote for school officers and on all school questions, at the regular voting place in the village to which such territory is attached, and should said village be divided into voting precincts, it shall be the duty of the board of education of such village school district to assign such territory to the adjoining precinct or precincts and to have a map prepared showing such assignment, said map to be made a part of the records of the board, and the electors residing in such attached territory shall be entitled to vote in the precinct to which they are assigned, but in case no assignment of territory is made, the elector shall vote in the precinct nearest his residence. An elector residing in a village, but not in a village school district, shall not be entitled to vote in said village school district. [97 v. 341.]

TOWNSHIP SCHOOL DISTRICTS.

Board of education in township districts; how constituted and elected.

Sec. 3915. The board of education of township school districts shall consist of five members elected at large at the same time and in the same manner as the township officers are elected, for the term of four years from the first Monday in January after their election [or] until their successors are elected and qualified. At the first township election held after the passage of this act, there shall be a board of education elected in all township districts as provided for herein, two to serve for two years, and three to serve for four years, and at the township election held every second year thereafter their successors shall be elected for the term of four years. Upon the organization of said boards, upon the succeeding first Monday in January after their election, the previously existing township boards of education shall be thereby abolished and the newly elected and organized board shall be their successors in all respects. [97 v. 342.]

Where elector residing in territory attached to township for school purposes entitled to vote on school questions.

Sec. 3916. Electors residing in territory attached to a township school district for school purposes, shall be entitled to vote for school officers and on all school questions, at the regular voting place in the township to which such territory is attached, and should such township be divided into different voting precincts, it shall be the duty of the board of education of the township district, to assign such attached territory to the adjoining precinct or precincts; if

territory is attached to more than one precinct, a map shall be prepared showing such assignment and said map shall be made a part of the records of the board of education, and electors shall be entitled to vote according to such assignment, but in case no assignment of territory is made, the electors shall vote in the precinct nearest to their residence. An elector residing in the township, but not in the township school district, shall not be entitled to vote in said township school district. [97 v. 342.]

SUBDISTRICT SCHOOL DIRECTOR.

Sec. 3921a. In all township districts the schools of which are not centralized or consolidated there shall be elected by ballot on the second Monday of April, 1905, and annually thereafter in each subdistrict, by the qualified electors thereof, one competent person, having the qualifications of an elector therein to be styled director. In all cases of tie votes at an election for director the judges of election shall decide the election by lot; and in other cases of failure to elect directors or in case of a refusal to serve, or in case where vacancies exist from any cause, the township board of education shall appoint a director for such subdistrict. The director of each subdistrict shall post written or printed notices in three or more conspicuous places in his subdistrict at least six days prior to the election, designating the day and hour of opening, and the hour of closing the election. The election shall be held at the school house in the subdistrict. The meeting shall be organized by appointing a chairman and secretary, who shall act as judges of the election under oath or affirmation, which oath or affirmation may be administered by the director of the subdistricts, or any other person competent to administer such an oath or affirmation, and the secretary shall keep a poll-book and tally-sheet, which shall be signed by the judges, and delivered within eight days to the clerk of the township board of education. The qualified electors of the subdistrict may hold other meetings at any time upon the call of the director or of any five electors. Five day's notice shall be given of such meetings by posting notices in five public places in the vicinity. The director of each subdistrict shall preside at the school meetings of the district, record their proceedings, and shall act as the organ of communication between the inhabitants and the township board of education. He shall take charge of the school house and property belonging thereto under the general order and direction of the township board of education and preserve the same and when so ordered by the board shall make all temporary repairs of the school house, furniture and fixtures, and provide the necessary fuel for the school, reporting the cost thereof to the board of education for payment. The director of each subdistrict shall

School director; election, powers and duties.

take the enumeration of his subdistrict and return the same to the clerk of the township board of education in the manner prescribed by law. [97 v. 343.]

Such election is conducted in the special manner provided in this section, and is not subject to the provisions of the ballot laws, nor under the control of the deputy state supervisors of the county. L. 3-9-05.

CENTRALIZATION.

Submission of
question of
centraliza-
tion.

Sec. 3927-2. A township board of education may submit the question of centralization, and upon the petition of not less than one-fourth of the qualified electors of such township district, must submit such question to a vote of the qualified electors of such township district, and if more votes are cast in favor of centralization than against it, at such election, it shall then become the duty of the board of education, and such board of education is required to proceed at once to the centralization of schools of the township, and if necessary purchase a site or sites and erect a suitable building or buildings thereon; provided, that if, at the said election, more votes are cast against the proposition for centralization than for it, the question shall not again be submitted to the electors of said township district for a period of two years. When the schools of a township have been centralized, such centralization shall not be discontinued within three years thereafter, and then only by petition and election as required herein and if at such election more votes are cast against centralization than for it, the division into subdistricts as they existed prior to centralization, shall be thereby re-established at the next regular election and subdistrict directors shall be elected as provided in section 3921a of this act. [97 v. 344.]

Submission of
question of
decentraliza-
tion.

Where a special election is held within a township or municipality for the submission of the question of the issue of bonds for school centralization, the judges and clerks of the proper precincts should make return of the vote, cast at such special election to the clerk of the township or municipality, or the clerk of the board of education of the districts, as the case may be. The law does not require that a separate return of the vote of such special election be made to the deputy state supervisors of the county. L. 3-15-05.

The board of education of a township district may submit the question of centralization to the qualified electors of the township district at either a general or special election. Due notice thereof must be given and the election conducted in all respects as provided for the election of township officers. L. 3-29-05.

The board of education acts as a canvassing board and has no authority to consider or count defective ballots returned by the judges of election. Such disputed ballots can be used only for the purpose of a contest, before a court having jurisdiction to determine the question raised by the contest. L. 3-15-05.

At such election the regular judges and clerks of election in the township precincts must preside and conduct it. The fact a judge resides within territory annexed to a village for school purposes does not disqualify him. L. 11-1-06.

Such question must be submitted at the next general election following the presentation of the petition. See also Sec. 2996-2, L. 2-15-06.

This section does not authorize the calling of a special election for that purpose. L. 10-31-06. See also Sec. 2996-2 R. S.

SPECIAL SCHOOL DISTRICTS.

Sec. 3928. A special school district may be formed of any contiguous territory, not included within the limits of an incorporated city or village, which has a total tax valuation of not less than one hundred thousand dollars. To establish a special school district, a petition signed by not less than ten male citizens who are electors of the proposed special district shall be filed in the office of the probate judge of the county in which such special district is situated or if said district is situated in two or more counties, then with the probate judge of the county having the greatest total tax valuation in said proposed district; said petition shall set forth the desires of the petitioners, shall contain a description of the territory to be included in the proposed special district, and shall be accompanied by a statement giving the total tax valuation of said territory certified to by the county auditor or auditors and also an accurate map of the territory to be included in said district, the same to be prepared to the satisfaction of the probate judge; said petition shall also be accompanied by an undertaking of one or more of the petitioners, with security to the satisfaction of the judge, in the sum of one hundred dollars, conditioned that the parties entering into the undertaking shall pay all the costs of the proceedings if a special school district is not created, and in such case the probate judge shall render judgment against the parties to the undertaking for all the costs of the proceedings. In case the petition is granted the costs shall be taxed against the special school district thereby authorized and shall be paid by the board of education of said special school district, thereafter elected, from any funds that may come into its possession. A remonstrance signed by one or more of the male citizens who are electors of the proposed district may be filed with the probate judge and shall be considered on the hearing of the petition. Nothing herein contained shall be so construed as to abolish any special school district now existing, but all such districts whether created under the provisions of a general or special act, including the territory now constituting such special district, shall, unless changed under the provisions of this chapter, continue to be and remain and be recognized and regarded as legal special school districts, excepting, however, such special school districts which do now or may hereafter include within their boundaries an incorporated city or village, and in such cases such special district shall become a city or village school district with or

Special school districts: how composed and created.

Special districts now existing shall continue: exception.

Officers of existing special school districts shall hold till their successors are elected and qualified.

without territory attached or detached, as the case may be. And all officers and members of boards of education of existing special school districts heretofore created, whether by special or general acts, shall continue to hold and exercise their respective offices and the powers thereof, until their successors are elected and qualified as provided herein; provided that all such officers of such districts created by special act shall hold such offices only until the first Monday of January following the first election for school officers to be held after the passage of this act, at which election their successors shall be elected. [97 v. 345.]

Board of education in special districts; how constituted and elected.

Sec. 3930. The board of education of special school districts shall consist of five members elected at large at the same time and in the same manner as the township officers are elected, for the term of four years from the first Monday in January after their election or until their successors are elected and qualified. At the first township election held after the passage of this act, there shall be a board of education elected in all special districts as provided for herein, two to serve for two years, and three to serve for four years, and at the township election held every second year thereafter, their successors shall be elected for the term of four years. Upon the organization of said boards, upon the succeeding first Monday in January after their election the previously existing boards of education of special school districts shall be thereby abolished and the newly elected and organized boards shall be their successors in all respects. [97 v. 346.]

Conduct of elections in special districts.

Sec. 3931. Elections in special school districts shall be held by the regular election officers of the township in which such special districts are situated and if a special district is situated in two or more townships, the election shall be held by the election officers of the different townships for the electors residing in each township respectively. At least twenty days prior to the first election held under this act, it shall be the duty of the clerk of the board of education of each special school district to notify the deputy supervisors of election of the county in which the district is situated, or if said district be in two or more counties, he shall notify the deputy supervisors of each county, of the names of the voting precincts having territory in such special school district, and the probable number of electors in each precinct, in order that said deputy supervisors shall be enabled to prepare ballots and election supplies and distribute the same to the proper precincts, and in each precinct there shall be separate ballots, ballot-boxes, poll-books and tally-sheets for each school district having voters therein. [97 v. 346.]

Sec. 3932. When a special school district is created, a mass meeting of the electors in such district shall be called by the posting of notices in five public places in the district setting forth the time and place of said meeting and signed by at least three electors of the district. The electors assembled at said meeting shall elect a chairman and secretary and fix the time for holding the first election for members of the board of education, the time so fixed shall not be within twenty-five days of the time of holding said mass meeting. The chairman and secretary of said meeting shall immediately post notices in five public places within the district, giving the date of the elections and shall notify the deputy state supervisors of elections as provided in section 3931 of the Revised Statutes of Ohio. The board thus elected, shall organize on the second Monday after the election and the term of the members shall be as indicated in section 3930 of the Revised Statutes of Ohio, from the first Monday in January after the last preceding annual election for members of boards of education, or until their successors are elected and qualified. [97 v. 347.]

Mass meeting to fix time for holding first election in special district.

Where a new special school district has been created and a special meeting of the electors of such district has been called for the purpose of electing a board of education, the deputy state supervisors should print the ballots, and the regular judges and clerks of the proper precinct should preside at such election. The returns of the first election should be made to and canvassed by the township clerk, whose duty it is to issue certificates of election to the newly elected members. Thereafter the returns of all elections within such special district must be made to the clerk and board of education thereof. L. 7-9-06.

Sec. 3935. When a petition is signed by not less than one-third of the electors residing within the territory constituting a special school district, whether created under the provisions of a general or special act, praying for the abandonment or continuance of such district, shall be presented to the board of education of said district, or when said board shall, by a majority vote of the full membership of the board, decide to submit the question of abandoning or continuing the special school district, it shall be the duty of the board to fix the time of holding said election at either a special or general election and the clerk of the board shall notify the deputy state supervisors of elections, as provided in section 3931 of the Revised Statutes of Ohio, of the date of such election and the nature of the same and said supervisors of elections shall provide for the same. The clerk of the board of education shall also post notices of said election in five public places within the district. If said election be submitted at a special election in a district situated in two or more election precincts, the election shall be held at the precinct nearest the school house in said special district, by the election officers of the precinct, and all the

Election to determine continuance or abandonment of special school district; how conducted.

electors of said district shall vote at said precinct. If the district is situated in two or more counties, the deputy state supervisors of the county in which said nearest election precinct is situated, shall have charge of the election. If said question is submitted at a regular election, it shall be conducted in the same manner as the election of members of the board of education. The ballot shall be in the regular form, but without the circle at the top, and shall have printed thereon "Abandonment of special school district, yes;" "Abandonment of special school district, no;" or "Continuance of special school district, yes;" "Continuance of special school district, no," as the case may be. The expense of said election shall be paid in the same manner as are other school election expenses, and returns of said elections shall be made to the board of education of the special school district and if more votes are cast for abandonment than against it or against continuance than for it, said boards shall certify the result to the board or boards of education of the township or townships having territory in said special district and the territory of said special district shall thereby revert to the township school district or districts from which it was originally taken, except as hereinafter provided for in the case of indebtedness of the special district. Otherwise said district shall continue to be and remain and be recognized and regarded as a legal special school district as theretofore constituted. The legal title of the property of the special school district shall in the event of abandonment or failure to continue become vested in the board or boards of education of the township or townships in which such property is situated. And the school funds of said special district shall be paid into the treasury of the township district and if said special district be in two or more townships, it shall be divided between them in proportion to the total tax valuation of property in the several districts, but the abandonment of a special school district shall not be deemed complete until the board of education of said district shall have provided for the payment of any indebtedness that may exist. [97 v. 348.]

VACANCIES.

Vacancies in
board of edu-
cation, how
filled.

Sec. 3981. Vacancies in any board of education arising from death, nonresidence, resignation, removal from office, failure of person elected or appointed to qualify within ten days after the organization of the board or of his appointment, removal from the district, or from other cause, shall be filled by the board of education at its next regular or special meeting or as soon thereafter as possible for the unexpired term. A majority vote of all the remaining members of the board can fill any vacancy or vacancies that may exist in said board. [97 v. 355.]

The person so chosen to fill the vacancy will serve until the election of his successor, and such successor for the unexpired term must be chosen at the first proper election which occurs more than thirty days after the creation of the vacancy. L. 11-9-06.

TAXATION, ETC.

Sec. 3959. The local tax levy for all school purposes shall not exceed twelve mills on the dollar of valuation of taxable property in any school district, but said levy shall not include any special levy, for a specified purpose, provided for by a vote of the people. A greater tax than is authorized herein may be levied for any or all school purposes if the proposition to make such levy shall have been first submitted, by the board of education, to a vote of the electors of the school district, under a resolution prescribing the time, place and nature of the proposition to be submitted, and approved by a majority of those voting on the proposition; notice of said election must be given by publication of the resolution for three consecutive weeks prior thereto in some newspapers published and of general circulation in the district, or by posting copies thereof in five of the most conspicuous places in the district for a like period, if no such paper is published therein. [97 v. 349.]

Maximum
levy.

Greater tax
may be levied
if authorized
by vote of
people.

Notice of
election.

Sec. 3991. When the board of education of any school district determines that it is necessary for the proper accomodation of the schools of such district to purchase a site or sites to erect a school house or houses, to complete a partially built school house, to enlarge, repair or furnish a school house, or to do any or all of said things, and that the funds at the disposal of said board or that can be raised under the provisions of section 3994 of the Revised Statutes of Ohio, are not sufficient to accomplish said purpose and that a bond issue is necessary, the board shall make an estimate of the probable amount of money required for such purpose or purposes and at a general election or a special election called for that purpose, shall submit to the electors of the district the question of the issuing of bonds for the amount so estimated; notices of the election required herein shall be given in the manner as provided in section thirty-nine hundred and seventy dash eleven. [97 v. 357.]

Submission of
question of
bond issue
for erection,
repairing, etc.,
of school-
house.

See notes to 3927-2.

(4009-15). Sec. 1. The boards of education of two adjoining township school districts, or of a township district and of a village or special school district situated partially or wholly within the township, may, by a majority vote of the full membership of each of said boards, unite said districts for high school purposes and each

Township high
school district,
establishment
of by boards
of education.

Question of
tax levy for
such purpose
must be sub-
mitted to vote.

When vote not
necessary.

Such high
school shall
be under con-
trol of board
of education
of district in
which school-
house is lo-
cated.

How funds
provided.

board may submit the question of levying a tax on the property in their respective districts, for the purpose of purchasing a site and erecting a building, and may issue bonds, as is provided for in section thirty-nine hundred and [ninety-one,] sixty-one, thirty-nine hundred and [ninety-two] sixty-two and thirty-nine hundred and [ninety-three] sixty-three of the Revised Statutes of Ohio, but said question of tax levy must carry in both districts before it shall become operative in either. If said boards of education have sufficient money in the treasury to purchase said site and erect said building, or if there is a suitable building in either district owned by the board of education that can be used for a high school building, it shall not be necessary to submit the proposition to a vote, and the boards are authorized to appropriate money from their funds for this purpose. Any high school so established shall be under the management of the board of education of the district in which the school house is located, and shall be free to all youth of school age within both districts, subject to such rules and regulations as may be adopted by the board of education having control of the school in regard to the qualifications in scholarship requisite for admission, such rules and regulations to be of uniform operation throughout both districts. The funds for the maintenance and support of such high school shall be provided by appropriations from the tuition or contingent funds, or both, of each district, in proportion to the total valuation of property in the respective districts, the same to be placed in a separate fund in the treasury of the board of education having control of the school and paid out by action of said board, but only for the purposes of maintaining said school. [97 v. 359.]

TURNPIKES.

Sec. 4763. The commissioner shall not levy any general tax, nor appropriate any money, except so far as may be necessary to pay the expense of preliminary surveys already commenced, or any other liabilities already incurred, to be expended in the construction of such turnpikes, without first submitting to the qualified voters of the county the question as to the policy of constructing such roads by general tax, which submission shall be made at any annual spring or fall election; and the commissioners shall cause public notice of such vote to be given by publication in all the newspapers printed and of general circulation in the county, and also by causing handbills to be posted up, at the usual place of holding election, in each township and ward throughout the county at least fifteen days prior to such election; provided, that in any county in which such question has heretofore been submitted, under the authority of an act entitled "An act to authorize county commissioners to locate and construct turnpike roads," passed April 30, 1869, and acts amendatory thereto, and in which, at such election, the majority of the votes cast were in favor of such policy, no vote shall again be required to authorize the commissioners to continue such tax and improve roads as provided for in this chapter. [77 v. 161.]

Questions of general tax for turnpikes must be submitted to electors.

Sec. 4764. The judges of such election in the several townships and wards in any county in which such question is submitted, and such notice given, as aforesaid, shall open a poll for taking such vote, receive and count the ballots cast, and within three days thereafter return to the auditor of the county a full and correct abstract of the votes, and shall in all respects be governed by the laws regulating general elections, and be entitled to the same compensation for returning the poll-books, which shall be paid out of the county treasury on the order of the auditor; and the poll-books so returned shall, within five days from the day of holding such election, be opened, and the votes counted by the commissioners and auditor of the county, and a correct statement of the result shall be kept by the auditor on file in his office for public inspection. [67 v. 9, § 2.]

Conduct of the election.

Sec. 4765. If at such election a majority of the votes so cast be against the policy of constructing such turnpikes, the commissioners shall not assess any tax for that purpose, but they may, on petition of not less than one hundred taxpayers of the county, again submit the same question at any regular annual election, either in the spring or fall, to the qualified voters of the county, notice of which shall be given and the election conducted in all respects in the manner prescribed in the two preceding sections. [67 v. 9, § 3.]

Question may be again submitted.

Effect of an
affirmative
vote.

Sec. 4766. If at any such election a majority be found in favor of the construction of such turnpikes, the commissioners may proceed to levy taxes, issue bonds, and appropriate and expend money in the construction of such turnpike roads, as in their judgment may be necessary to the public convenience and promotive of the public interest.

Villages may
assist in con-
structing
such roads.

May issue
bonds.

Sec. 4823. Councils of villages are authorized to levy a tax to construct free turnpike roads, or a part thereof, in counties wherein such villages are situated, and terminating or running through such villages, and for this purpose such councils are authorized to issue the bonds of the villages, payable with legal interest at such times as the councils may deem advisable, and such bonds shall not be sold for less than their par value. [64 v. 54, § 2; 64 v. 109, § 1.]

Tax to be sub-
mitted to
electors.

Sec. 4824. For the purpose of paying such bonds, and the interest thereon, as the same become due, the councils are authorized to levy a tax upon the taxable property of such villages sufficient for the purpose, not exceeding five mills on the dollar in any year; but such tax shall in no case be levied, nor shall such bonds be issued, until at some regular election, held in such villages, the majority of the qualified electors thereof approve the tax; and in case the amount to be appropriated for any one road does not exceed the sum of five hundred dollars, the councils may appropriate and apply the same in money for said road improvement, out of any money on hand, or funds not otherwise appropriated, without issuing bonds or levying a tax, such appropriation to be made by an ordinance passed for the purpose, specifying particularly the amount, and for what road appropriated. [72 v. 83, § 3.]

ELECTION PRECINCTS.

Sec. 2923. Each township, exclusive of the territory embraced within the limits of a municipal corporation, shall compose an election precinct, unless such township is divided according to law, into precincts. Each municipal corporation containing fifty or more voters, shall also compose an election precinct, unless such corporation is divided, according to law, into precincts; but if such municipal corporation is situated in two or more townships, the territory of such corporation situated in such townships together with the territory attached thereto for voting purposes, shall constitute at least one election precinct, provided that territory annexed to a village for school purposes may be included within a village precinct if the deputy state supervisors are of the opinion the same is practicable and most convenient to the voters. Each ward of every city shall compose one election precinct, unless such ward is divided, according to law, into precincts. Elections shall be held for every township precinct at such place within the township as the trustees thereof shall determine to be most convenient of access for the voters of such precinct, and for each municipal, or ward precinct, at such place as the council of the corporation shall designate. Provided that in registration cities, the deputy state supervisors of election shall designate such place of holding election in each precinct. [98 O. L. 234.]

Election precincts: how composed.

The polling place of a village precinct should not be within the same room as that selected by the township as a township polling place. Under the present law it is necessary to have separate ballots and ballot boxes with separate judges of election for each voting precinct, and it would not be proper for two sets of officers to conduct an election within the same polling place. 2-21-06.

Sec. 2966-15. In all municipalities where registration is not required, and in townships, when four hundred votes or more have been cast at the last preceding November election in any ward or township, or in any precinct therein, such ward, township or election precinct may, or, when a majority of the voters petition therefor, shall be divided by the deputy state supervisor, as hereinafter provided, into two or more election precincts, so as to limit the number of voters in each ward or precinct to two hundred, as nearly as may be practicable; and from time to time, any or all of such precincts may be rearranged, subdivided, or combined as often as may be deemed necessary or the convenience of the electors and the prompt and correct conduct of the elections may require, provided that no precinct hereafter created shall contain less than one hundred and fifty voters; except that a municipality containing fifty or more voters shall compare at least one voting precinct as provided in section 2923 herein, and in a municipality situated in two or more townships, the part thereof in each township shall compose at least one voting precinct if there are fifty or

Division of wards, townships or precincts.

Rearrangement, subdivision or combination of such precincts.

Precincts shall contain at least one hundred and fifty voters; exception.

Notice of proposed change.

Hearing and determination of question.

Precincts in registration cities.

Election of assessors.

Election precincts in cities in which registration is required.

more voters therein. At least thirty days previous to any election the officers above named shall give ten days' notice, by publication in two papers of opposite politics published in the county, that the question whether the township, ward or precinct, or precincts, shall be divided, changed or combined, will be considered on a day named in said notice. On said day, or some subsequent day to which the matter may be adjourned, the question of dividing, changing or combining said precinct shall be heard, and if there are no remonstrances against said division, change or combination, they shall declare the same, and the precincts so established; but if any twelve electors of such precinct remonstrate against such division, change or combination, the matter shall be heard and determined, and such order made for or against such division, change or combination as is deemed proper; provided, that nothing in this section shall be construed to affect the power and duties of boards of deputy state supervisors in reference to the division of election precincts within such cities as provided in section 2926 of the Revised Statutes; provided, further, that the division of any election precinct into two or more subdivisions, as herein provided, shall not be construed as requiring the election of an assessor in each such subdivision, but in all such election precincts subdivided as aforesaid there shall be elected one assessor for each original precinct unless the deputy state supervisors, at the time of the division, shall order that an assessor be elected in each precinct. [97 v. 225.]

Where the board of deputy state supervisors has divided a precinct in accordance with law, the presiding judge in each of the precincts should be from the dominant party in the whole precinct as determined by the vote in such precinct at the next preceding November election. L. 10-15-01.

The deputy state supervisors of a county have no authority to divide a township into two or more election precincts unless 400 votes or more are cast therein at the last preceding November election. L. 10-19-06.

Sec. 2926. In cities in which registration is required is hereinafter provided when five hundred votes or more have been cast at the last preceding election in any ward, or in any precinct in any ward, such ward or election precinct shall be divided by the board of deputy state supervisors of elections of the county, hereinafter provided for, into two or more election precincts, so as to limit the number of votes in each ward of precinct to two hundred and fifty, as nearly as may be practicable. And from time to time thereafter the said board shall rearrange, subdivide or combine precincts, as often as it may deem such action necessary to secure the convenience of electors and the prompt and correct conduct of elections; but no such precinct hereafter created shall contain less than two hundred votes. [97 v. 192.]

As to legislative power to require registration, see *Dagget v. Hudson* 43 O. S. 518.

SUPERVISORY ELECTION LAWS.

(1966-1.) Sec. 1. There is hereby created the offices of state supervisor of elections, state supervisor and inspector of elections, deputy state supervisors of elections, and deputy state supervisors and inspectors of elections, with the powers and duties hereinafter prescribed, for the conduct and supervision of the registration of electors, and of elections in this state, except as otherwise provided by law. [97 v. 218.]

State supervisor of elections, state supervisor and inspector of elections, deputy state supervisors and deputy state supervisors and inspectors of elections.

The deputy state supervisors are not constituted a board, or corporate body by the statute, but each one acts simply as a deputy state supervisor, and in case of litigation the action should be against him in that capacity, and he may prosecute an error, even though the others refuse to join with him.

Randall et al. v. State Ex rel. Hunter et al. 64 O. S. 57.

The decision of the state supervisor of elections as to matters in controversy submitted to him by the deputy state supervisor, is final. It is the duty of said deputy state supervisors to obey such decision of the state supervisor of elections, and it is error for a court, by mandamus or otherwise, to order such deputy state supervisors to perform an act contrary to such decision of the state supervisor of elections.

Randall et al. v. State Ex rel. Hunter, 64 O. S. 57.

A court of equity will not enjoin a board of elections from proceeding in the exercise of its powers on the ground that such proceedings are irregular or illegal, where it does not appear that they will involve any expenditure of the public funds.

Columbus v. City Board of Elections, 13 O. D. 452.

As to powers of board of elections to employ legal counsel see State Ex rel. v. Boyden, 10 O. C. D. 137.

Under this provision it is the duty of the state supervisor, when he has reason to believe that the law has been violated in any particular locality, to order the deputy state supervisors to make an investigation, and the deputy supervisors not only have the power, but it is also their duty, when so ordered, to make the investigation. T. 11-20-93.

The state supervisor or the deputy state supervisors have no duties to perform until after the election has been ordered by the properly constituted authorities. T. 9-19-94.

Under Sec. 891a the commissioners of a county may receive, or accept a gift or bequest for library purposes, but there is no provision to submit to a vote of the people, the question of such acceptance, and the board of deputy supervisors of elections have no authority to do so. L. 10-12-06.

The board of deputy state supervisors of a county have no authority to submit a question to a vote of the people of such county at the November election, unless such question is authorized by law to be so submitted. L. 10-15-06.

(1966-2.) Sec. 2. By virtue of his office the secretary of state shall be the state supervisor of elections, and the state supervisor and inspector of elections, and in addition to the duties now imposed upon him by law, shall perform the duties of such offices as defined herein. [9; v. 218.]

State supervisor of elections and state supervisor and inspector of elections.

Courts can not by injunction interfere with public elections. An election by the voters of certain territory in the township which

OHIO ELECTION LAWS.

it is proposed to incorporate as a hamlet can not therefore be interfered with by injunction.

Lawrence v. Mitchell 8 N. P. 8.

It is not the duty of the Secretary of State to render opinions as to every election complication that arises, but only to advise the deputy state supervisors as to the proper method of conducting elections after they have been called. T. 4-25-94.

Appointments,
qualifications
and term of
deputy state
supervisors.

(2966-3.) Sec. 3. On or before the first Monday in August, 1892, such state supervisor shall appoint four deputy state supervisors for each county in this state, who shall be qualified electors of the county for which appointed. For the first appointment, two members shall be appointed for a term of one year, and two for a term of two years from the first Monday in August, 1892. One member so appointed for one year and one for two years, shall be from the political party which cast the highest number of votes at the last preceding November election for governor or secretary of state. The other two members shall be appointed from the political party which cast the next highest number of votes for such officer at said November election. Thereafter except in counties containing cities wherein annual general registration of electors is required by this act, appointments shall be made annually for two deputy state supervisors for each county for the term of two years, which appointments shall be made from two political parties which cast the highest and next highest number of votes at the last preceding November election for governor or secretary of state. All vacancies shall be filled and all appointments to new terms made from the political party to which the vacating or outgoing member belongs, unless there be a third political party which cast a greater number of votes in this state than did the party to which the retiring member belonged, at the next preceding November election in which event the vacancy shall be filled from such third party. Provided, that if the executive committees of the two political parties in the county casting the highest and next highest number of votes in this state at the last preceding November election, recommend qualified persons to the state supervisor at least fifteen days before the first day of August, then the state supervisor shall appoint the persons so recommended to the number to which such party is entitled; provided, whenever recommendations are made to the state supervisor of elections for appointment to new terms or to fill vacancies in the office of deputy state supervisor of elections, or deputy state supervisors and inspectors of elections, by more than one committee each claiming to be the rightful executive committee of a political party entitled to recommend qualified persons for appointment on such boards, the state supervisors of elections shall, before making any such appointment, notify the chairman of the state central committee of the political party entitled to such appointment or appointments, and shall recognize that com-

Vacancies.

Recommendation by
party executive
committee.

Determination of right-
ful executive
committee
when recom-
mendation
is made by
more than one
committee,
each claiming
to be rightful.

mittee as the rightful executive committee which said state central committee shall certify to be the rightful committee of said party; provided, however, that if, such committee shall fail to make such certification for ten days from the giving of such notice, then the state supervisor of elections shall determine which of said disputing bodies or committees is the rightful committee of such party and shall make the appointment or appointments agreeable to the provisions of this section.

Whenever a vacancy occurs in the membership of any board of deputy state supervisors of elections or deputy state supervisors and inspectors of elections, if within five days after such vacancy occurs the executive committee of the party entitled to the appointment to fill such vacancy recommends a qualified person to the state supervisors of elections, he shall appoint such person to fill such vacancy for the unexpired term; but if no such recommendations are made, the state supervisor shall make the appointment agreeable to the provisions herein contained. Any deputy state supervisor may be removed by the state supervisor for misfeasance or malfeasance in office or other good and sufficient cause, and if, in filling vacancies caused by removals, no person or persons belonging to the political party as the person or persons removed, can be induced to accept such appointment, then the vacancies can be filled by appointments from any other political party.

Vacancies.

Removals.

On or before the first day of May, 1904, the state supervisor and the inspector of elections shall appoint four deputy state supervisors and inspectors of elections, in each county in the state which contains a city wherein annual general registration of electors is required by this act, who shall be qualified electors of the county for which they are appointed.

Appoint-
ments, quali-
fications and
terms of de-
puty state su-
pervisors and
inspectors.

For the first appointments, two members shall be appointed for the term of two years, and two for the term of four years, from the first day of May, 1904. One member so appointed for two years, and one for four years, shall be from the political party which cast the highest number of votes at the last preceding November election for governor or secretary of state; the other two members shall be appointed from the political party which cast the next highest number of votes for such officer at said November election.

Thereafter, appointments shall be made biennial [biennially] for two deputy state supervisors and inspectors of elections for each such county, for the term of four years which appointment shall be from the two political parties which cast the highest and the next highest number of votes at the last preceding November election for governor or secretary of state. All vacancies shall be filled and all appointments to new terms made from the political party

Vacancies.

Recommendations by party executive committees.

to which the vacating or outgoing member belongs, unless there be a third political party which cast a greater number of votes in this state at the next preceding November election than did the party to which the retiring member belonged, in which event the vacancy shall be filled from such third party. Provided, that if the executive committees of the two political parties in the county casting the highest and the next highest number of votes in this state at the last preceding November election, recommend qualified persons to the state supervisor and inspector of elections at least five days before the first day of May, then the state supervisor and inspector shall appoint the persons so recommended to the number to which such party is entitled; but if no such recommendation is made, the state supervisor and inspector shall make the appointments agreeable to the provisions herein contained.

Powers and duties of state supervisor and inspector of elections and deputy state supervisors and inspectors of elections.

The state supervisor and inspector of elections and the deputy state supervisors and inspectors of elections shall have, in addition to the powers and duties conferred upon them for the investigation and prosecution of offenses against the registration and election laws of this state, all the rights, powers and duties conferred and imposed by law upon the state supervisor of elections, and the deputy state supervisors of elections; and except where otherwise expressly provided the term "state supervisor" shall be taken to apply to the state supervisor and inspector equally with the state supervisor, and the terms "deputy state supervisor" and "deputy state supervisors" shall be taken to apply to deputy state supervisors and inspectors of elections equally with deputy state supervisors of elections, and the term "clerk" shall be taken to apply to the clerk of the board of deputy state supervisors and inspectors of elections equally with the clerk of the board of deputy state supervisors of elections.

Deputy clerk; compensation.

The board of deputy state supervisors and inspectors of elections shall also appoint a deputy clerk who shall perform such duties and receive such compensation, not exceeding one hundred and fifty dollars per month, as shall be determined by the board.

Organization and selection of clerk and deputy clerk.

The deputy state supervisors and inspectors of elections shall, within five days after this appointment, and biennially thereafter meet and organize by selecting one of their number as chief deputy, who shall preside at all meetings, and two resident electors of the county, other than members of the board, as clerk and deputy clerk respectively, all of which officers shall continue in office for two years. The balloting for such officers shall commence at or before one o'clock p. m. of the day of the convening, and at least one ballot shall be taken every twenty minutes until such organization is effected, or five ballots have been cast as hereinafter provided.

The clerk shall first be selected by the votes of at least three members, and if, after five ballots, no person shall be agreed upon as clerk, the names of all persons so voted for on such fifth ballot, together with the names of the deputies who nominated them, shall be certified to the state supervisor and inspector of elections, who shall designate therefrom one of such persons to serve as clerk, and another such person to serve as deputy clerk. The clerk and deputy clerk shall be of opposite political parties, and each such officer shall have been nominated by a deputy state supervisor and inspector of the political party to which he belongs.

After the selection of the clerk, the chief deputy shall be selected from the deputies of opposite politics to that of the clerk, and if upon the first ballot no person shall be agreed upon as chief deputy, the deputy of opposite politics to the clerk and having the shortest term to serve shall be and act as chief deputy, presiding at all meetings. When such organization is perfected, the clerk shall forthwith report the same to the state supervisor and inspector of elections. All vacancies in the office of chief deputy clerk, and deputy clerk, shall be filled in the same manner as original selections are made and by persons belonging to the same political party as that to which the outgoing officer belonged. The clerk, or deputy clerk, may be removed by the state supervisor and inspector, or by the deputy state supervisors and inspectors, for any violation or neglect of duty, or other good and sufficient cause. [98 O. L. 288.]

Selection of
chief deputy.

Report of
organization.

By section 2966-3, of the Revised Statutes, the state supervisor of election was required, on or before the first Monday in August, 1892, to appoint deputy state supervisors of election for the term of one and two years from that date, as therein provided; and, as the first Monday in August of the year was the first day of the month, that became the day of the month for the beginning of the terms of subsequent appointees, and on or before which such subsequent appointments should be made.

State Ex rel. Culbert v. Kinney, Secretary, 63 O. S. 304.

When a recommendation for the appointment of a qualified person as deputy state supervisors of elections, signed by the chairman, secretary and members of the county executive committee of a political party that at the present November election cast the highest number of votes for governor or secretary of state, is placed on file with the state supervisor of elections, within the required time, it is his duty to appoint the person so recommended.

State Ex rel. Culbert v. Kinney, Secretary, 63 O. S. 304.

Mandamus is the proper remedy to enforce the performance of that duty.

State Ex rel. Culbert v. Kinney, Secretary, 63 O. S. 304.

As to county boards of elections — Who eligible to appointment on — Duty of Probate Judge in respect of.

State Ex rel. v. Finger, 48 O. S. 505.

The Deputy State Supervisors of Elections are not officers within the legal definition of that term, and, though their jurisdiction may be co-terminous with that of the county, they are

not county officers, and, therefore, Sec. 2966-3 R. S. does not violate Sec. 1 of Art. 10 of the Constitution.

State Ex rel, Vail v. Craig, 8 N. P. 148.

The deputy supervisors of election of the county have the power to decide questions of substance, as well as form. Questions that arise in the "course of the nomination" of candidates, including those which arose before, as well as after, the certificates of nomination are made by the proper persons. Their decision of such questions is final.

Gregg v. Rogers, 1 N. P. 117.

The question what constitutes an "Executive Committee" within the meaning of the election laws must be determined by the usages and custom of the party of the county. Where a county central committee exercises full control and management of the political affairs of the county and has not conferred such authority upon an executive committee, then the central committee would be authorized to make such recommendation. But if the central committee has duly appointed an executive committee with power to act in the management and control of the political affairs of the county until the creation of a new committee, such executive committee would have authority to make such recommendation. L. 7-9-06.

While the statutes governing the conduct of elections refer to the "Executive Committee" of a political party, such statutes do not define the manner in which a political party shall elect such committee. In such case it is proper to consider the custom and usage of such party in the selection of its controlling committees. I am, however, clearly of the opinion that the county central committee of a political party is the only body having authority to appoint an executive committee. Failing to make such appointment the central committee itself becomes the executive committee within the meaning of the laws above referred to. L. 10-3-06.

When the state central committee of a political party has determined which of two rival county committees is the "rightful executive committee" of such party under the provisions of this section, it is the duty of the state supervisor of elections, and the county board of deputy state supervisors to recognize such executive committee in all matters where the county executive committee of such party is authorized to act. L. 8-27-06.

The members of a county central committee of a political party should be chosen at a primary or county convention for the nomination of county officers or delegates, in an even numbered year, when county officers are to be elected. In like manner township committees should be chosen at a primary election, caucus or convention of township officers. L. 9-7-06.

The term of the clerk like the newly appointed members of the board begins on August 1st and extends for one year. Where the board fails to organize until a later date the old clerk holds over, and the term of the new clerk is shortened to that extent. L. 8-13-06.

Temporary removal from a county, by a deputy supervisor, with intention of returning, as soon as the reason for such temporary removal ceases, does not disqualify, if such removal does not prevent him from discharging his official duties as such deputy supervisor. L. 10-31-06.

Charges against any deputy state supervisor, for misfeasance or malfeasance in office may be preferred by any elector; charges that he has ceased to act with his political party, or does not represent its interest may be preferred by the executive committee recommending his appointment. L. 11-5-06.

The state supervisor has no authority to remove a member of the board, except for misfeasance or malfeasance in office, or other good and sufficient cause. L. 10-27-06.

Where a board of deputy state supervisors has organized under the laws by casting lots for the clerk and such action has been recorded, and the board has entered upon its duties, no provision is made for an inquiry into the manner of such organization. L. 9-21-05.

SEC. (2966-4.) Sec. 4. The deputy state supervisors shall, within fifteen days after their appointment, in each year, meet in the office of the county commissioners or in counties containing registration cities at their office in such city as may be most convenient and organize by selecting one of their number as chief deputy, who shall preside at all meetings, and a resident elector of such county, other than a member of the board, as clerk, both of which officers shall continue in office for one year. The balloting for such officers shall commence at or before 1 o'clock p. m., on the day of convening, and at least one ballot shall be taken every twenty minutes until such organization is effected. The clerk shall be first selected by the votes of at least three members, and if, after five ballots no person shall be agreed upon as clerk, the clerk shall be selected by lot, from two persons of opposite politics, to be nominated by the deputy supervisors, the two deputy supervisors of the same politics to name one candidate for clerk, and the two deputies of opposite politics to name the other. After the selection of the clerk the chief deputy shall be selected from deputies of opposite politics to that of the clerk, and if upon the first ballot no person shall be agreed upon as chief deputy, the deputy of opposite politics to the clerk having the shortest term to serve, shall be, and act as chief deputy, presiding at all meetings. When such organization is perfected, the clerk shall forthwith report the same to the state supervisor. The clerk may be removed by the state supervisor or deputy state supervisors for any violation or neglect of duty or other good and sufficient cause, and such vacancy shall be filled by the deputy state supervisors, from the political party to which such outgoing clerk belonged. The clerk shall have power to administer oaths to such persons as are required by law to file certificates or other papers with the board, and to judges and clerks of election, or any witnesses who may be called to testify before the board. Such deputy supervisors shall meet on the twelfth day before each election, and shall remain in session for such length of time as may be necessary, and shall adjourn to such day as their duties prescribed by law may require. Each deputy state supervisor shall receive for his services the sum of three dollars for each election precinct in his respective county, and the clerk shall receive for his services the sum of four dollars for each election precinct in his respective county; and the compensation so allowed such officers, during any year, shall be determined by the number of precincts in such county at the November election of the next preceding year. Provided that the compensation paid to each of said

Deputy state supervisors; organization.

Chief deputy.

Clerk.

Report of organization.

Removal of clerk.

Clerk's power to administer oath.

Meetings of board.

Compensation of members and clerk.

Minimum
compensation.

How paid.

Necessary ex-
penses.

deputy supervisors under this section shall in no case be less than one hundred dollars per annum and that the compensation paid to the clerk shall in no case be less than one hundred and twenty-five dollars per annum. Such compensation shall be paid quarterly out of the general revenue fund of the county treasury upon vouchers of the board made and certified by the chief deputy and the clerk thereof. Upon presentation of such voucher or vouchers, the county auditor shall issue his warrant upon the treasurer for the amount thereof and the treasurer shall pay the same. All proper necessary expenses of such board of deputy state supervisors shall be defrayed out of the county treasury as other county expenses, and the county commissioners shall make the necessary levy to meet the same; which expenses shall, in the case of boards of supervisors and inspectors of elections, include all expenses authorized by the state supervisor and inspector and incurred in the investigation and prosecution of offenses against the laws relating to the registration of electors, the right of suffrage, and the conduct of elections. [97 v. 221.]

An action against the individual members of a public board is a distinct action from one against the board as such, and cannot by answer be changed to an action against the board itself.

State Ex rel. Wilmont et al. v. Buckley, et al. 17 C. C. 86.

It is the duty of the board to have a sufficient and proper room or office in which to transact the business of the board, and it is also the duty of the board to file and carefully keep all papers, documents and supplies filed with such board and necessary in the performance of its duties. For this purpose a proper desk and files, together with proper and necessary furniture for such room or office must be provided. The reasonable rent of such room or office, unless furnished by the commissioners at the Court House, together with the expense of such furniture, desk and files, are proper charges against the county, and should be paid out of the county treasury upon the order of the County Commissioners as other county expenses. L. 12-23-05.

Whether the employment of a stenographer is a necessary and proper expense is for the deputy state supervisors and county commissioners to determine. L. 11-10-05.

There is no provision for payment of compensation in such case, other than for "Necessary expenses." L. 11-1-06.

The compensation provided by the election laws is in full for all services rendered by the board. No additional compensation can be paid for inspection of voting precincts of the county. L. 8-10-06.

"Proper and necessary expenses of the board" applies to the expenses of the board as a whole, and cannot be made to apply to personal expenses or mileage of the members of the board in their attendance upon meetings. L. 9-7-06.

The necessary expenses of the chief deputy and clerk while in attendance upon a meeting of the district board for the purpose of hearing objections arising in the course of the nomination of candidates of said district, may be allowed and paid as "proper and necessary expenses of the board," but no additional compensation can be allowed such officers in excess of the annual compensation otherwise authorized by law. L. 9-15-06.

In counties containing a registration city, the deputy clerk of the board of deputy state supervisors has authority to administer

oaths and register electors within such registration city during the absence of the clerk. L. 9-15-06.

Necessary travelling expenses of a chief deputy and clerk in attendance upon a meeting of the district board for hearing objections to a certificate of nomination of a candidate for a district office are "Expenses of the Board" within the meaning of above section and should be paid out of the county treasury. L. 11-5-06.

The year referred to in the above, is that beginning on the 1st day of August, and the compensation, unless it falls within the \$100. provision, is determined by the number of election precincts in his county at the November election next preceding the 1st day of August upon which he enters his office. T. 1-30-07.

"All proper necessary expenses of such board, etc.," does not include the expenses of the individual members of the board in travelling from their homes to the place of meeting of the board or otherwise incurred in attending such meeting. T. 1-25-07.

Attendance by the chief deputy and clerk upon a district meeting as provided by Sec. 2966-23, is a duty enjoined by law, in the performance of which they are entitled to their necessary railroad fare and meals as "proper necessary expenses" and each county should defray such expense of its chief deputy and clerk. T. 1-25-07.

(2966-5.) Sec. 5. The secretary of state is hereby authorized and required to collate and publish from time to time all the election laws in force applicable to the conduct of elections. There shall be a sufficient number of copies of such election laws printed, to be bound in paper, which shall be distributed in proportion to the number of voting precincts in each county, such distribution to be made in each county by the deputy supervisors therefor. [97 v. 222.]

Codification and publication of election laws.

Distribution.

This law is constitutional. State v. Cincinnati 52 O. S. 419.

(2966-6) Sec. 6. At least ten days before any general election the deputy supervisors of each county shall appoint, in all precincts in which the voters are not registered four judges and two clerks of election, residents of the precinct who shall constitute the election of officers of such precinct; the deputy supervisors shall designate one judge in each precinct, who shall be selected from the dominant party in such precinct, as determined by the next preceding November election, to act as presiding judge. The terms of the judges and clerks shall cease and terminate at the end of one year from the date of their appointment, at which time, and annually thereafter, their successors shall be appointed to similar term of office, agreeably to the provisions of this act. Not more than two judges and not more than one clerk shall belong to the same political party. If a judge or clerk in any precinct shall fail to appear on the morning of election, the electors present shall, viva voce, choose a suitable person, having the qualifications of an elector, to fill the vacancy from the political party to which the absent judge or clerk belonged. The judges and clerks shall each receive as compensation the sum of three dollars for their services, which services shall be the receiving, recording, canvassing, and making

Appointment of clerks.

Presiding judge.

Terms.

Appointment.

Vacancy.

Compensation.

Proviso.

Removals.

Oath of election officers.

Appointments for unexpired term.

return of all the votes that may be delivered to them in the voting precinct in which they preside on each election day; provided that in any county containing a city having a population of three hundred thousand or more, by the last preceding federal census, the compensation of judges and clerks of election for such services shall be five dollars; and in cities where registration is required, the compensation of judges and clerks of election shall be as otherwise provided in this act. The judges and clerks of election, appointed as provided in this section, may be summarily removed from office by the board of deputy state supervisors at any time for neglect of duty, malfeasance or misconduct therein, and in all cases the last appointment to either of such offices for any precinct shall be recognized as valid. When any such officers have been removed and new appointments made, it shall be the duty of the board of deputy state supervisors to immediately send notice to the board of precinct officers. The judges and clerks of election may be sworn by the clerk of the board or any member thereof, and the presiding judge may administer the oath to the other election officers of his ward, township or precinct. Provided, that when new precincts have been created or vacancies exist, the deputy state supervisors shall at least ten days before any annual election appoint judges and clerks of election for such precincts, who shall serve for the unexpired term. [97 v. 222.]

In determining which is the dominant party the board should take into consideration the result generally in the precinct at the last election, or in other words as to which party carried the precincts for the most of its candidates. K. 10-25-98.

Judges and clerks of election should be selected from "political parties," within the meaning of this section. The board may in its discretion appoint a judge or clerk from a political party other than the two political parties which cast the highest and next highest number of votes in the precincts at the next preceding November election. L. 10-14-01.

A member of a board of deputy state supervisors is not eligible to serve as a judge or clerk of elections of a precinct within the jurisdiction of such board. L. 10-14-01.

The board of deputy state supervisors have no authority to enter the precinct and superintend or interfere with the judges and clerks of election in the discharge of such duties, neither have they any authority or right to attend during the count of the votes in a precinct. L. 10-27-05.

The state supervisor of elections has no authority to appoint judges and clerks of election. This duty devolves upon the board of deputy state supervisors of the county. L. 11-3-05.

"The dominant party" of a precinct is the controlling or prevailing party of such precinct. Whether a party is the dominant party at an election must be determined from the vote cast for the candidates of such party in such precinct. And the vote of such party cannot be determined by the vote of any one candidate of that party. L. 10-25-06.

The "dominant party" of a precinct is the party which cast a majority of votes for the several candidates within the precinct for state, district and county officers. L. 10-26-06.

The appointment of judges and clerks, is wholly within the discretion of the board of deputy supervisors, and their action is not reviewable by the State Supervisor. L. 11-1-06.

See note to Sec. 2966-15, as to presiding judge where a precinct has been divided.

(2966-7.) Sec. 7. Each deputy supervisor of elections shall, before entering upon his duties, appear before some person authorized to administer oaths, and take and subscribe to the following oath, which shall be filed with the clerk of the court of common pleas in the county where such deputy resides:

Oath of
deputy
supervisors.

State of Ohio, _____ county, ss.:

I do solemnly swear (or affirm) that I will support the constitution of the United States and of the state of Ohio, and perform the duties of deputy state supervisor of elections to the best of my ability. Signed _____.

Sworn to and subscribed before me this _____ day of _____, in the year _____.

[Title of officer.]

The clerk of the deputy supervisors for each county shall, before entering upon his duties, take and subscribe the following oath, which shall be filed with the clerk of the court of common pleas of the county where he resides:

Oath of clerk
of deputy
supervisors.

State of Ohio, _____ county, ss.:

I do solemnly swear (or affirm) that I will support the constitution of the United States and of the state of Ohio, and discharge the duties of clerk of the deputy state supervisors for _____ county to the best of my ability, and preserve and keep all records, documents and other property pertaining to the conduct of elections placed in my custody. Signed, _____.

Sworn to and subscribed before me this _____ day of _____, in the year _____.

[Title of officer.]

The clerks and judges of election shall take and subscribe to the following oath, which, upon request of the person appointed, shall be administered without compensation by any person authorized to administer oaths, and which shall be filed with the clerk of the deputy state supervisors:

Oath of clerks
and judges.

State of Ohio, _____ county, ss.:

I do solemnly swear that I will support the constitution of the United States and of the state of Ohio, and to the best of my ability discharge the duties of judge _____, _____ clerk _____ of the election in and for precinct _____, _____ township, _____ county, at the next ensuing election, and I further solemnly swear that if, in the discharge of my official duties, I gain knowledge as to how any elector voted at said election, I will not disclose the same. Signed, _____.

Sworn to and subscribed before me this ——— day
of ———, in the year ———.

[*Title of officer.*]

[91 v. 119.]

Duties of
judges and
clerks.

(2966-8.) Sec. 8. The judges and clerks provided for herein shall serve as such in all elections held under the provisions of this act. They shall perform all the duties and be subject to all the penalties imposed upon judges and clerks of election by law.

Duties of state
supervisor
and deputy
state super-
visors.

The state supervisor of elections, the deputy state supervisors, and the deputy state supervisors and inspectors of elections, as herein provided, shall perform all the duties imposed by law.

Certificates of
nominations
and nomina-
tion papers.

The state supervisor of elections and the deputy state supervisors shall receive and file certificates of nominations and nomination papers, pass upon the validity thereof and certify the same agreeably to the provisions of law.

Investigation
and prosecu-
tion of viola-
tion of elec-
tion laws.

It shall be the duty of the boards of deputy state supervisors and inspectors of elections to investigate and prosecute all violations of the laws relating to the registration of electors, the right of suffrage and the conduct of elections, and to report the same to the state supervisor and inspector of elections; and when approved by the state supervisor and inspector, and by a vote of a majority of all its members, each such board may incur any expense necessary to the conduct of such investigations and prosecutions.

General duties
of deputy
supervisors.

The deputy supervisors for each county shall advertise and let the printing of the ballots, cards of instruction and other required books and papers to be printed by the county; they shall receive the ballots from the printer and cause the same to be securely sealed up in their presence in packages, one for each precinct, containing the designated number of ballots for each precinct, and shall make the necessary indorsement thereon as provided in the ballot laws; they shall provide for the delivery of the ballots, poll-books and other required books and papers at the polling places in the several precincts; they shall cause the polling places to be suitably provided with booths, guard-rails, etc., as provided in the act of April 30, 1891, and acts amendatory and supplementary thereto; they shall provide for the care and custody of the same during the intervals between elections; they shall receive the returns of elections, canvass them, and make abstracts of the same, and transmit such abstracts to the proper officers at the times and in the manner provided in sections 2980, 2982, 2983, 2989 and 2994 of the Revised Statutes, to canvass the returns, make abstracts thereof, transmit the same and issue certificates to persons entitled to the same.

In November elections for township or municipal officers, or boards of education, or the election of a justice of the peace, the judges and clerks of election in each precinct shall make and certify the returns to the clerk of the township or the clerk or auditor of the municipality in or for which the election is held, or the clerk of the board of education of the school district, instead of to the deputy state supervisors, and the said township clerk, or the clerk or auditor of the municipality, or clerk of the board of education, shall canvass the vote and declare the result in the manner, and as provided in sections 1453, 1729 and 3910 of the Revised Statutes, and in case of an election of a justice of the peace, shall certify the result to the board of deputy state supervisors; but in municipalities where the voters are registered the returns of the election of municipal officers or boards of education or justices of the peace shall be made to the board of deputy state supervisors, and canvassed by a board of canvassers, consisting of the board of deputy state supervisors and the city auditor. [97 v. 223.]

Return and canvass of vote for township and municipal officers, members of boards of education and justices of the peace.

In certifying the election of an officer the power of the deputy state supervisor of elections is limited to certifying that the successful candidate has been elected and they have no power to decide upon a disputed term of office.

State Ex rel. Pardee v. Pattison, Governor et al. 73 O. S. 305.

The duties of the board of deputy supervisors of elections in making the abstracts of votes returned by the precinct officers are purely ministerial, and limited to compiling the votes shown by the tally sheets so returned to certifying and transmitting the abstract so made to the proper officers. The board is without authority to hear evidence to contradict or explain tally-sheets, or to in any manner determine any questions relative to disputed ballots or contested matters. K. 10-30-00.

The board of deputy state supervisors are public officers, and, in a prosecution for violation of the election laws are not required to give security for costs. T. 11-27-94.

The compensation allowed judges of election for carrying the returns to the board on election night should be paid out of the county fund. L. 11-16-05.

The judge appointed to carry the returns of the election of township officers to the township clerk is entitled to compensation provided for in Sec. 2966-52. Such compensation is usually allowed by the county auditor out of the county funds, but by that officer charged back to the township. L. 11-20-05.

Where an elector registers more than once, and evidence satisfactory to the board is had that it was done with fraudulent intent, it is their duty to prosecute. L. 11-1-06.

See Section 2966-27 and cases there cited as to printing ballots.

(2966-9.) Sec. 9. Any deputy state supervisor of elections or any clerk of the deputy supervisors for any county, upon whom a duty is imposed by law, who shall wilfully and negligently violate his said duty, or who shall wilfully neglect to perform such duty, or who shall wilfully perform it in such a way as to hinder the objects of the

Penalty for violation, neglect, or wrong performance of duty, or disobedience, by deputy supervisor or clerk.

law, or who shall wilfully disobey any provision of the law incumbent on him, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment in jail not more than one year, or both. [89 v. 460.]

Investigation of irregularities or non-performance of duty by election officer; report thereon.

(2966-10.) Sec. 9a. It shall be the duty of the county boards of deputy state supervisors to investigate all irregularities or non-performance of duty by any election officer that may be reported to them, or that comes to their knowledge, and report the facts to the state supervisor of elections and to the prosecuting attorney of the county; and the state supervisor of elections, or the deputy state supervisors of the county, shall have authority, and it is hereby made their duty, to order the prosecution of all offenses for violations of this act, or any of the laws of the state relating to the conduct of elections. [91 v. 121.]

Prosecutions.

Judges and clerks of election now in office; their successors.

(2966-11.) Sec. 6. The judges and clerks of election now in office shall serve as such until the first day of October, 1894, when their terms of office shall cease and determine; after such date, and at least ten days prior to the November election, the deputy state supervisors shall appoint their successors for the terms and in the manner provided by law. [91 v. 122.]

Compensation of state supervisor.

(2966-12.) Sec. 1. The state supervisor of elections shall receive, as compensation for his services in said capacity, an annual salary of one thousand dollars. [97 v. 224.]

POLL-BOOKS AND TALLY-SHEETS.

Poll-books and tally-sheets.

Sec. 1252. The deputy state supervisors shall furnish, at the expense of the county, and at least five days before the day of election, all the necessary poll-books and tally-sheets required in each voting precinct in the county, for all presidential, congressional, state, county, municipal, township or other elections. * * * [90 v. 277.]

BALLOT-BOXES.

Ballot-box and custody of.

Sec. 2928. The deputy state supervisors shall cause to be provided, at the expense of the county, a ballot-box for each precinct therein which may be without the same, and cause it to be deposited with the proper township or village clerk or city auditor; and every such officer shall cause a ballot-box, with a copy of this title, to be delivered at each place of holding elections in his township or corporation as often as elections are held therein, and after each election the same shall be forthwith returned to him by the judges of election for safe keeping; provided that in registration cities, the care of the ballot-boxes to be used at any election shall devolve upon such board. [97 v. 217.]

The auditor of Hamilton County was not authorized by law to issue, on certificate of the sheriff of said county not approved

by the board of county commissioners thereof, a warrant upon the treasurer for the amount of a bill claimed to be for ballot boxes furnished by such sheriff under the provisions of this section. And a mandamus will not be issued against the treasurer at the instance of the holder of such warrant requiring him to pay the same on his refusal to do so.

State Ex rel. v. Ratterman, 3 C. C. 626.

REGISTRATION LAW.

Applicable to Akron, Ashtabula, Canton, Chillicothe, Dayton, East Liverpool, Findlay, Hamilton, Ironton, Lima, Lorain, Mansfield, Marietta, Marion, Massillon, Newark, Piqua, Portsmouth, Sandusky, Springfield, Steubenville, Youngstown and Zanesville, cities having a population of eleven thousand eight hundred and less than one hundred thousand and in which quadrennial general registration is required; also to Cleveland, Cincinnati, Toledo, and Columbus, cities having a population of one hundred thousand or over and in which annual general registration is required.

Sec. 2926a. In all cities which at the last preceding federal census had, or which at any subsequent federal census may have a population of eleven thousand eight hundred or more, there shall be a general registration of electors in the several wards or precincts thereof, in the manner and at the times, and on the days hereinafter provided; no person shall be deemed or held to have acquired a legal residence in any ward or election precinct in any such city, for the purpose of voting therein at any election, general or special, nor shall he be admitted to vote at any election therein, unless he shall have caused himself to be registered as an elector in such ward or precinct in the manner and at the time hereinafter required. [98 v. 212.]

Registration required of voters in cities having a population of eleven thousand eight hundred or more.

See Doggett v. Hudson, 43 O. S. 548.

An elector who, registers prior to the November election in the precinct where he then resides is a registered elector in any new or altered precinct which the board of elections may establish, and within the boundaries of which his residence falls.

Columbus v. City Board of Elections, 13 O. D. 452

Sec. 2926b. The office of member of city boards of elections and the city board of elections in registration cities, and the office of secretary of such boards are hereby abolished; and in all countries which contain a city wherein annual general registration of electors is required by this act, all the powers and duties heretofore exercised by city boards of elections, and the secretary thereof, in so far as consistent with the provisions of this act, and other existing laws, shall be exercised by the board of deputy state supervisors and inspectors of elections of such county, and the clerk thereof respectively; and in all other cases such powers and duties shall be exercised by the board of deputy state supervisors of the county in which such city is situated, and the clerk thereof respectively.

Office of member of city board of elections abolished; powers and duties thereof conferred on board of deputy state supervisors and inspectors of elections or board of deputy state supervisors of the county.

Office of member of board of deputy state supervisors of elections in counties containing cities in which annual general registration is required abolished; powers and duties thereof conferred upon board of deputy state supervisors and inspectors of elections of such county.

Clerk; his duties.

Office of board.

Organization of such board; general powers and duties.

And the office of deputy state supervisor of elections, and the board of deputy state supervisors of elections, and the office of clerk of such board, are hereby abolished in every county which contains a city wherein annual general registration of electors is required by this act; and all the powers and duties heretofore exercised by the board of deputy state supervisors of elections and the clerk thereof in such counties, in so far as consistent with the provisions of this act, and other existing laws, shall be exercised by the board of deputy state supervisors and inspectors of elections of each such county, hereinafter provided for, and the clerk thereof respectively. Provided, however, that said city boards of election, and boards of deputy state supervisors of elections, and the clerks thereof, shall continue to exercise the powers and duties of their offices under existing laws and receive compensation therefor, until the deputy state supervisors and inspectors herein provided for have been appointed as provided herein. The clerk of the board shall, subject to the control of the board keep a full and true record of their proceedings, file and preserve in their office all orders, rules and regulations in anywise pertaining to the administration of registration and elections; prepare and furnish, under the orders of such board, all the registers, lists, books, maps, forms, oaths, certificates, instructions and blanks, for the use and guidance of registrars, judges and clerks of elections, and the board of canvassers; provide for timely furnishing of such officers therewith, and with all the necessary supplies provided for them; to receive and keep close custody of all the registers and copies returned to such office as provided herein, and of all records, papers and certificates of every kind relating to the office or administration of such board; he shall also have the care of the ballot-boxes while deposited at the office of such board; and he shall perform all such other or further duties, pertaining to such office and affairs as shall be prescribed by such board. The board of deputy state supervisors shall have a sufficient and suitable office and rooms for the purpose herein required which shall be in charge of their clerk, and in cities in which annual general registration is required shall be kept open daily, except Sundays and legal holidays, and in other registration cities at such time as the board may require. [97 v. 192.]

As to term of clerk; State Ex rel v. Connor, 5 C. C. 305.

Sec. 2926c. The members of the board of deputy state supervisors shall meet within fifteen days after their appointment, and organize by the election of a chief deputy and clerk as provided in section 4 of the supervisory election law, section (2966-4) of the Revised Statutes. No order, resolution or action of such board shall be valid without the vote of three of the four members. Such board shall appoint all registrars of electors, judges and clerks

of election and other clerks, officers and agents herein provided for, and designate the ward and precinct in which each shall serve. All deputy clerks, assistants, registrars and judges and clerks of election, now in office, in registration cities, shall remain in their respective offices and employments and continue to perform the several duties thereof and receive the compensation therefor, under existing laws, and under the direction and control of the board of deputy state supervisors, or the board of deputy state supervisors and inspectors, as the case may be, until their successors are chosen or appointed and qualified or until removed by the proper authority in accordance with the provisions of this act. The board of deputy state supervisors shall also appoint the places of registration of electors, and holding elections in each ward or precinct, and provide suitable booths or hire suitable rooms for such purpose and for their own office, at such rents as they deem just; they shall also provide the necessary and proper furniture and supplies for such rooms, and for the purchase, preservation and repair of all booths and ballot-boxes, necessary for use at elections in such city, and all books, blanks, and forms necessary for the registrations and elections herein designated, and for duly issuing all notices, advertisements or publications required by law. The board of deputy state supervisors of elections or the board of deputy state supervisors and inspectors of elections, as the case may be, of counties containing registration cities and the clerk thereof shall, upon the taking effect of this act, have the custody, care and control of all registers, lists, books, maps, forms, oaths, certificates, blanks, booths, and ballot-boxes, and all other property and supplies heretofore under the custody and control of the city boards of elections and the secretary thereof.

Rules and
regulations.

Election
precincts.

Deputy clerk
and assistants;
salaries.

The board may, from time to time, make and issue all such rules, regulations and instructions, not inconsistent with law, as they shall deem necessary for governing and guiding their clerk and his deputy or assistants, and the registrars of electors and judges, and clerks of elections, or other persons under their control in the proper discharge of their respective offices and duties. They shall divide, define and proclaim the election precincts of such city, authorized in section two thousand nine hundred and twenty-six, and the boundaries thereof, and provide for furnishing to each registrar of electors and judges of elections a map and pertinent description of such divisions and boundaries, and of any changes which from time to time are made by them. When necessary, they may employ a deputy clerk and one or more clerks as temporary assistants of their clerk, at a salary not to exceed the rate of one hundred dollars per month, and prescribe their duties. The period for which they are employed must always be fixed in the order authorizing their employment, but they may

be discharged sooner at the pleasure of the board. Such deputy clerk and all such assistants shall take the same oath for the faithful performance of their duties as required of the clerk of said board. [97 v. 193.]

In a registration city, the deputy state supervisors must designate the polling places within such registration city and pay the rent therefor. L. 11-12-06.

Salaries and
expenses;
how paid.

Sec. 2926d. The cost and charge of the salaries of members of such board of deputy state supervisors in any such city, and of the clerk and his deputy and assistants, and all necessary expenses of the board for the purposes herein authorized, and the lawful compensation of all registrars of electors, in such cities, appointed by such board and the necessary cost of the registers or other books, blanks, forms, stationery and supplies to be provided by said board for the purposes herein authorized, including poll-books for special elections and the cost of the rent, furnishing and supplies of all rooms hired by said board for their offices and as places for the registration of electors and holding of elections in such cities shall be borne and paid, by any such city out of its general fund, upon vouchers of such board certified by its chief deputy and clerk, specifying in every voucher the actual services, items of supplies, and prices and rates in detail, which shall be allowed by the city auditor, and upon his warrant paid by the city treasurer of any such city. [97 v. 195.]

Appointment
of registrars.

Sec. 2926e. On or before the first day of September, annually, the board of deputy state supervisors shall appoint for each and every election precinct, in any such city, two electors of such city to act as registrar of the electors, and also as judges of election in such precinct. And on or before the first day of October, annually, the said board shall appoint two additional judges of election and two clerks of elections for each and every precinct in any such city. Such registrars, judges and clerks of elections shall each hold their appointment for one year, unless sooner removed by the board and must be electors of any such city, and able to read and speak the English language understandingly and write it readily and fairly, and each shall take an oath of office, as follows:

Term.

Qualifications.

State of Ohio, _____ County, ss:

Oath.

I do solemnly swear (or affirm) that I will support the constitution of the United States and of the state of Ohio, and to the best of my ability discharge the duties of judge (registrar or clerk) of the election in and for precinct , ward, city of at the next ensuing election.

Appearance
for examina-
tion.

Signed,

[Title of officer.]

Such oath may be administered by the clerk or any member of such board, and shall be filed in the office of such

board. All persons selected by said board for any of said appointments shall appear before said board at their office after twenty-four hours' notice, either served personally or left their usual place of residence for examination as to their qualifications before being appointed; any elector of such city so selected who shall fail to appear before said board as required by law, or any elector of such city so appointed to act as registrar, judge or clerk of elections therein, who shall refuse or neglect to take and subscribe the oath of office, unless excused by said board, or any registrar, who shall, after being duly appointed, fail to be at the place designated for registration in his precinct during the hours set for the registration of electors, or who shall fail to deposit the registers at the office of the board of deputy state supervisors in accordance with the provisions of section 2926*i* of the Revised Statutes, or who shall fail to post the printed lists as required by section 2926*l* of the Revised Statutes, or any person who shall wilfully mar, damage or destroy any registers or portion thereof, shall be fined not more than one hundred dollars nor less than twenty-five dollars, or be imprisoned in the county jail not more than fifteen days, or both, in the discretion of the court. Neither the two registrars for any precinct, nor the two clerks of election, shall be of the same political party. Nor shall more than two of the four judges of election for any precinct be of the same political party. Appointments of such officers for every precinct shall be made so as in good faith to secure equal representation of political parties, if practicable. Any vacancy in the office of registrar, or of a judge or clerk of elections, shall be filled by said board of deputy state supervisors, and either or any of such officers may be summarily removed from office by such board at any time for neglect of duty, malfeasance or misconduct therein. And in all cases the last appointment to either of such offices for any precinct shall be recognized as valid. If any clerk of elections fails to attend at the opening of the polls on the day of any election, or shall during the election, by any cause become disabled or unfit to act in entering, enumerating or certifying the ballots, the judges of election, or a majority of them, may summarily remove him, and the two judges of the same political party as such clerk shall forthwith appoint another competent elector of any such city to act in his place, and administer to him the oath of office above prescribed; if any judge of election fails to attend at the opening of the polls on the day of election for any cause, by decision of the other three judges, shall become disabled or unfit to act in receiving and enumerating the ballots and certifying the results of the election, the other judge of the same political party shall at once appoint another competent elector of any such city to act in his place, and administer to him the oath of office above prescribed. Provided, that notice of such appointment of judge or clerk

Failure to appear.

Refusal to take oath.

Failure of registrar to perform duties.

Damage, or destruction of registers; penalty.

Equal representation of political parties.

Vacancies and removals.

Substituted judges and clerks.

Notice of appointment of substitutes.

Certificates of appointment as registrars, judges and clerks.

Exemption from performance of military duty.

Minute of removal.

Powers and duties of registrars and judges and peace officers.

Preventing violence and disorder, etc.

Guarding registration and count.

Protecting clerks, witnesses and challengers.

Securing registers, poll-books, ballots, etc.

Duty of police.

Loitering near polls.

be immediately sent by the judge making such appointment to the board of deputy state supervisors, and such person so appointed shall not perform any of the duties of his office until the notice has been sent to the board. The person so appointed to act temporarily as judge or clerk shall perform the duties of the office after the sending of said notice, until the board shall confirm said appointment or appoint another for said office. Whoever shall be appointed as registrar, judge, or clerk of elections by the board of deputy state supervisors, shall receive from the board a certificate of appointment, which may be revoked at any time by the board; said certificate to be in such form as may be prescribed by the board and to specify the precinct and ward of the city in and for which the person to whom the same is issued is appointed to serve, the date of appointment, and the expiration of his term of office. Registrars, judges and clerks of election during the time they hold such certificate of appointment, and as such officers shall be exempt from the performance of military and jury duty. And immediately upon such a removal of a clerk or judge, and filling the vacancy as above provided for, a brief note of the proceedings shall be entered in the poll-books and subscribed by the judges so acting, and specially stating the cause of such removal. [97 v. 195.]

Sec. 2926f. All registrars of electors and judges of elections, while exercising their office under this or any other law regulating elections, shall have full power and authority, and are hereby required to enforce the peace and good order and obedience to their lawful commands for such ends at and about the places of registration and of holding elections. They shall especially keep the access of electors to the polls open and unobstructed, prevent and suppress all riot, violence, tumult and disorder, and also any and all improper practices or attempts tending to obstruct or intimidate electors from a free exercise of their free right to vote, or tending to disturb or interfere with the free and peaceful registration of electors, or counting and certifying the result of an election. They shall also protect the clerks of an election and the witnesses and the challengers designated to attend the election as herein provided for, from any violence, interference or molestation during the receiving and enumeration of ballots. And they shall at all hazards be bound to preserve and secure the registers, poll-books, ballot boxes and ballots at every election from violence, fraud or tampering. To enforce the provisions of this section, the officer or authority having command of the police force of any such city, shall promptly, on the requisition of such board of deputy state supervisors, detail for service at the polling place in any precinct of such city, such force as such board may deem necessary, and on every day of elections shall have a special force in readiness for any emergency. During the receiving and counting of the ballots or registering of electors, no person shall congregate or

loiter within one hundred feet of the polling place of any election or place of registration of electors, or in any manner hinder or delay any elector in reaching or leaving the place fixed for registration or casting his ballot, or within such distance of one hundred feet to give or tender or exhibit any ballot or ticket to any person other than a judge of election, or to exhibit any ticket or ballot which he intends to cast, or solicit or in any attempt to influence any elector in casting his vote. In the discharge of their duties, the judges of election may, if necessary, appoint and require any elector or electors to aid them in making known their orders or directions and enforcing the peace. The judges of election, or any of them, or any registrar, may order the arrest of any person violating this section, but such arrest shall not prevent such person from voting or registering if he is entitled to do so. The sheriff and all constables, policemen and officers of the peace, and all bystanders at any election, shall immediately obey and aid in the enforcing any and every lawful order made by the judges at any election in execution of the provisions of this section. Any person wilfully refusing or neglecting to perform any of the duties by this section prescribed, shall be fined not less than twenty dollars nor more than one thousand dollars, or imprisoned in the county jail not less than thirty days nor more than one year, or both. [97 v. 197.]

Hindering
electors.

Soliciting
votes, etc.

Power to se-
cure assist-
ance .

To order
arrests.

Who shall
obey and aid
them.

Penalty for
refusal.

Duplicate list
of electors to
be furnished
registrars; ex-
ception.

Sec. 2926g. On or before the first day of September annually, the clerk, under the direction of the board of deputy state supervisors shall, in any city in which quadrennial general registration is required as provided in section 2926h prepare and furnish to the registrars so appointed for each precinct in any such city, duplicate lists of all electors so registered in such precincts at the last general registration, together with such new and additional ones as may have registered at any election subsequent to the such general registration, with sufficient blank space for new electors to be registered therein, excepting every fourth year, when a general registration is required, as provided in section 2926h. And the board shall, on or before the first day of September annually in cities in which yearly general registration is required, procure and have at their office, duplicate books for each and every election precinct, in any such city for the registration of electors therein, and which shall be styled and known as "registers of electors." Each register shall contain space and ruled lines for at least seven hundred names, and be arranged and ruled in parallel columns, with printed heading, in the following order: Number (consecutively), full name, age, term of residence, nativity, how long resident in precinct, in state, when naturalized, court, married or single, date of registration, sworn, signature, remarks; and the rulings and headings of each page of the register shall be according to the following diagram enlarged:

Registrars of
electors; how
appointed.

their duties as may be lawfully prescribed by such board.
[97 v. 198.]

See Daggett v. Hudson, 43 O. S. 548.

Sec. 2926*h*. The days for the general registration of electors in cities wherein annual general registration is required, and for the quadrennial registration and the yearly registration of new electors in cities wherein general registration is required only in presidential years, in the several precincts in every such city, shall be Thursday in the fifth week, Thursday in the fourth week, Friday and Saturday in the third week next before the day of the general election in November in each year. Between the first day of September and the day preceding the first of the days above prescribed for the general registration, and no longer, the clerk of the board of deputy state supervisors shall act as registering officer in the following cases only:

Days for
registration.

When clerk
to act as reg-
istering offi-
cer.

Any person, resident of such city, who will be lawfully entitled to vote therein at the next succeeding election in November, may go before such clerk, at the office of such board, and on making and subscribing an oath or affirmation before him that he will necessarily and unavoidably be absent from such city on all the days appointed or allowed by this section for the general registration of electors by the registrars of the precinct in which he resides specifying the same, and more than fifty miles distant therefrom, the clerk if satisfied, shall thereupon file such affidavit and make registration of such person in the registrars of such precinct, on compliance of such applicant with the foregoing requirements of this section for general registration, and his signature to the statement prescribed, and no further registry of such applicant shall be necessary; any elector of such city who is absent therefrom, and without the county in which it is situated, and more than fifty miles distant from such city, may appear before any judge or clerk of any court of record, or notary public, or, if in foreign country before any minister, consul or vice consul of the United States, and make and subscribe an affidavit as to his residence, specifying in what ward and precinct he resides, and that he will be necessarily and unavoidably absent from such city on all the days allowed or appointed by this act for the general registration of electors by the registrars on such precinct, and answering and setting forth accurately each and all the matters herein required to be set forth in the register of the electors, and forward such affidavit, duly authenticated as above, by mail, under an envelope addressed to the "clerk of the board of deputy state supervisors" of such city; if received by such clerk between the days above appointed for his acting as registrar, it shall entitle such applicant to be entered by the clerk in the proper register of such precinct; and in place of the signature of such elector, the word "affidavit" shall be inserted, and no

Registration
by clerk of
persons who
will be neces-
sarily absent
during regis-
tration.

Application
to clerk for
registration
by mail.

Affidavits.

Transmittal
affidavits
to registrars.

Entry of word
"challenged"
on registers.

Close of
registration
by clerk.

Annual regis-
tration of elec-
tors in cities
having a pop-
ulation of one
hundred thou-
sand or more.

Quadrennial
registration
of electors in
cities having
a population of
eleven thou-
sand eight
hundred and
less than one
hundred thou-
sand.

Registration
of new elec-
tors or elec-
tors moving
into precinct.

further registry of such applicant shall be necessary; such affidavit and envelope shall be filed and preserved in such office; but no such affidavit shall be allowed by the clerk unless the officer before whom it is made shall certify that the affiant is personally known to him to be the person he represents himself to be, or proven so to be by a creditable person known to him and whose name and full address must be stated in such certificate. Any such affidavit of an absent elector which shall be received by such clerk on or after the first days herein appointed for general registration by the registrars, shall be transmitted by him immediately to the registrars of the proper precinct, and they shall be authorized to register the applicant as above directed, and shall preserve such affidavit; provided, that in any case where application for registration is thus made by affidavits forwarded by mail, if the clerk or registrars, as the case may be, are not satisfied that such applicant is a resident of the precinct so specified, or that he will be entitled to vote on the day of the next election, the word "challenged" shall be entered in the register opposite his name and in the column for "remarks," and such affidavit and envelope shall be transmitted to the judges of election; and such applicant, if he appear, shall be required to establish his residence and qualification before voting. On the day preceding the first of the days herein appointed for the general registration the clerk of the board of deputy state supervisors, shall, in each and every register in which he has entered any registration of electors, as in this section provided, close the same by drawing double lines across the page with ink, immediately below the last name registered by him, and add the words "close of registration by the clerk," and shall thereunto subscribe his name and office.

In all cities which now and hereafter may have a population of one hundred thousand or more, when ascertained in the manner provided in section 2926a, there shall be an annual general registration of all the electors therein, in the several wards and precincts, on the days and in the manner herein provided; in all cities, which now or hereafter may have a population of eleven thousand eight hundred and less than one hundred thousand, a general registration of all the electors therein shall only be had at each and every presidential election, at the times and upon the days hereinbefore specified; and at all other state, or other public elections, those electors who have been duly registered at such general registration as herein provided, and have not removed from the precinct in which they then registered at said general registration in any such city, shall not be required to register; but at such state, or other public elections, at the times hereinbefore provided for registration days, only those electors of any such city shall be required to register, as may be new electors, or who have moved into any precinct of any such city, since any general registration, and have not

been registered therein, excepting (that) at such public election other than presidential and state, such registration shall take place on Friday and Saturday in the second week before any such election. And if any elector removes from the precinct in which he has so registered into another precinct of the city in which he resides, he shall apply in person to the registrars of the precinct in which he has so registered for a "removal certificate," as provided by section 2926k. Within a sufficient time previous to any such state, or other public election, it shall be the duty of the registrars of each and every precinct in any such city to obtain the preceding register made by them from the board of deputy state supervisors, and attend at the place in such precinct appointed for the registration of electors at the time hereinbefore provided, and receive applications for registration by such qualified electors residing therein as are not already registered at the last preceding general registration; it shall further be the duty of such registrars to take all such preceding registers of their respective precincts, so required to be furnished them by section 2926g of this act, and make a thorough canvass thereof, for the purpose of ascertaining whether or not any of the electors so registered have removed or died, and shall make a report of their proceedings, carefully noting any and all changes found, together with such additional names of electors registered by them, to the board of deputy state supervisors. [98 O. L. 212.]

Removal certificates.

Duties of registrars.

Sec. 2926i. The registrars of electors appointed as herein provided shall, on each of the days appointed for the general registration of electors, meet at the place in each precinct provided by the board of deputy state supervisors for that purpose, and there remain a session from the hour of eight o'clock before noon, until the hour of two o'clock in the afternoon, and from four o'clock in the afternoon until nine o'clock in the evening of each and all the days so appointed for the purpose of registering the electors lawfully resident in such precinct. No person shall be registered as an elector of any such city at any time or place other than those which are in this act designated; and in making registration every applicant shall answer the inquiries made by the registrars; and the registrars having openly and publicly met at the place and time herein appointed, shall proceed as follows:

Hours for general registration.

Mode of registration.

1. They shall receive the application for registration of all such male persons, resident in such precinct, as then are, or on the day of election which will next follow such application will be entitled to vote therein, and who shall personally come before them, and such only; the registrars may, and if the right of the applicant to be registered be challenged by any elector shall, administer the following oath, to-wit: "You do solemnly swear (or affirm) that you will truly and fully answer all such questions as shall be put to you touching your place of resi-

Receipt of application for registration.

Oath in cases challenge.

dence, name, age, place of birth, qualifications as an elector, and your right as such to be registered and vote under the laws of this state."

Examination
of applicant.

Entries in
registers.

2. They shall then examine each applicant as to his residence and qualifications as an elector, and if not satisfied, or if any elector so demands, shall enter the word "challenged" under the column for "remarks." Unless otherwise herein directed, they shall then, in the presence of the applicant, enter in the registers his answers to their questions pertinent to the heading of each column, in their order. In entering his number, such number shall be filled up consecutively, leaving no blank, and in names they shall include his Christian name or names in full as well as his surname. In the column as to "residence," shall be stated the name of the street, avenue, alley, or way in which his dwelling is located, or access to the same usually had, and the number of the house, if it has one. If it has no number, a definite description by which it can easily be found, must in every such case be given and entered. If there be more houses than the one under the number so given, or if there be other families, tenants, or lodgers in that in which the applicant resides, he must specify in which house and on which floor, and whether front or rear of such house, he resides, and the number or location of his tenement. In the column as to age, the years and months must be stated, and if the applicant is not at the time twenty-one years of age or more, the words "not of age," must be inserted in the column of remarks. In the column as to "term of residence," the periods of years and months of his residence in the precinct and state must both be stated. In the column as to naturalization, the answer "yes" or "no," or "native" must be given and stated. If naturalized, the proper certificate or evidence must be produced. The column as to "date of registration" must be filled with the date on which the application was actually registered, and none other.

Signature of
applicant.

By mark.

3. After the answers of the applicants to the questions under the head of each and every column have been properly entered by the registrar in his presence, and not until then, he must enter his signature on the same line, and in both of the registers in the column "signatures." Signatures, when made by a mark, must be attested by at least one subscribing witness, who shall be an elector, and may be examined by the registrars under oath as to his knowledge of the person thus attested, and in such case noted by the registrars on the registers as "sworn" or "affirmed," as the case may be.

Comparison of
duplicate
registers.

Close of day's
registration.

4. Each of the registrars shall enter the statement of the applicants in the duplicate register kept by him, and both shall be signed by the applicant. At the close of each day's registration, the registrars shall compare their regis-

ters with each other, and correct any discrepancies in form before closing them for the day. The registrations for the day shall then be ruled off by double lines, to be drawn by the registrars across the page in ink, and immediately under the last-named and statement so registered. And the registrars shall make a note in writing under such double line stating, "close of the first, second, etc., day's registration," and attest the same by their signatures in both registers. The registers shall then be deposited by them at the end of each day at the office of the board of deputy state supervisors.

Attestation.

Registers;
where de-
posited.

5. All registers, when not in the official use of the registrars, or the judges of the elections, shall at all times be deposited and locked up in the office of the board of deputy state supervisors of such city, subject to be produced for inspection at all proper times. [97 v. 202.]

Sec. 2926j. Every male person who is a citizen of the United States, and a lawful resident of this state, and of any city wherein registration is required, and who is, or at the next ensuing election in such city will be entitled to vote therein, shall, on application, in the election precinct where he lawfully resides, and complying with the requirements herein, be registered as a resident and elector therein, but not otherwise. But no person shall be entitled to vote at any election in any such city unless he shall establish his residence by causing himself to be registered in the precinct where he shall claim to reside, in the manner and at the time required herein, nor shall any ballot be received by the judges at any election under any pretense whatever, unless the name of the person offering such ballot shall have been entered on both of the registers of the precinct in which he claims to vote, as herein provided. And it shall be the duty of every elector resident in any such city to see that his name has been so registered. But any elector in any such city who is prevented by sickness or physical disability from appearing before the registrars, at the place in his election precinct, on the days for general registration may apply to such registrars on either of said days by his affidavit, made before any judge or justice of the peace or notary public in such city; such affidavit shall contain a full and proper answer to each and every question under all the heads or columns required for registration, and shall be transmitted to such registrars by a credible person, who is an elector of such precinct, and personally cognizant of the sickness and disability of such applicant, and of the facts stated in such affidavit, and who shall be examined by such registrars, under oath, in the premises. And if satisfied that such applicant is a resident of such precinct, and that he is then, or on the day of the next election, will be, qualified to vote in such precinct, such registrars shall enter said applicant as registered, and in the column for signatures enter the word

Voters re-
quired to
register.

Registration
of persons
disabled by
sickness, etc.

"affidavit," and transmit the affidavit, with the registers, to the judges of election, and such registration shall be sufficient. [97 v. 204.]

Certificates in case of removal or mistake.

Sec. 2926*k*. Any elector who, being the head of a family, and duly registered in the precinct where he then resided, shall remove into another precinct in the same city, or any elector, not the head of a family, duly registered in a precinct of a ward where he then resided, who shall remove into another precinct in the same ward, may, on any of the days of general registration, apply in person to the registrars of his previous precinct for a "removal certificate," and the same shall be made and signed by them, certifying his said registration, with all its particulars, as shown on their registers, but adding his statement of the new residence and precinct to which he has removed. They shall then immediately cancel his registration on their registers by drawing double lines in ink through the same, and noting his "removal" and the ward and precinct to which he has removed in the column of "remarks," but such note must be subscribed by such applicant. And when by mistake a qualified elector has caused himself to be registered in a precinct which was not his place of residence, the registrars therein, on full and satisfactory proof that such error was committed by mistake, and without fraud or any unlawful intent, may, on his personal application and proof of his true residence, give him a similar certificate as in case of a removal, and cancel his registration in the same manner on their registers. And the certificates, in case of a removal or mistake, so granted, shall, if presented on any of the days for general registration, or between the hours of two-thirty and five-thirty o'clock on Monday, the day preceding the November election, to the registrars of the precinct where such person so certified lawfully resides, and proper proof thereof made to them, shall entitle such persons to be registered therein. But in all cases where registration is so granted upon certificates from the registrars of other precincts, or by order of the board of deputy state supervisors as hereinafter provided, such certificates or order must be retained by the registrars to whom it is presented, and filed by them in the office of the board of deputy state supervisors and preserved. But no such certificate or transfer shall be allowed or be of any validity unless certified and signed by both of the registrars of the precinct in which the registration was first made. [97 v. 204.]

New registration.

Disposition of such certificates.

Transfers.

Annual registration list.

This section applies where after registration an elector removes to another precinct of the same city prior to the close of registration. If he so removes after the last day of registration the provisions of Sec. 2926*m*. apply. L. 10-31-06.

Sec. 2926*l*. On Monday in the week preceding the November election, annually, the registrars of each and every election precinct shall make out and deliver to the

board of deputy state supervisors in such city, at their office, a true list of the names of all the electors registered by them in their respective precincts, arranged in the alphabetical order of their surname, followed by their full Christian names and residences, and having the registry number of each prefixed. This list shall be under the following heading, namely: "List of electors registered in ward—, precinct—, of the city of —; on the — days of —, nineteen hundred and —, No. —, — name, — residence." And the following certificate shall be annexed at the end of the list and signed by both of the registrars of the several precincts, namely:

Heading.

"We, the undersigned registrars of electors in ward —, precinct —, of the city of —, in the county of —, and state of Ohio, do certify that the foregoing list is a true and correct copy of the names, residences, and registry numbers on the registers of said precinct of all persons who have been registered by us as residents, and qualified electors in the said precinct, this — day of — in the year nineteen hundred and —." And it shall be the duty of the board of deputy state supervisors immediately to cause at least three copies of the list for each and every precinct in such city, respectively to be printed on broadside sheets of thick paper, and in plain type, two of which lists they shall cause to be securely posted up at the polling place in such precinct, three days or more before the November election, annually, and also before every other election. The third copy from each precinct shall be retained by the board of deputy state supervisors and annually bound together in a volume and preserved in their office, and they shall cause at least fifty additional copies of such list, respectively, to be printed in pamphlet form for immediate distribution. Said registrars, after making and returning such lists to the board of deputy state supervisors shall make out in books, to be prepared and furnished to them by such board, duplicate lists of all the registered electors in their precinct, arranged alphabetically in the order of their surnames, followed by their full Christian names, ages, and residences as registered, and the registry number of each prefixed. The books to be prepared for this purpose shall be ruled in columns, with printed headings, as follows, namely: Registry number —, name —, age —, residence —, voted —, remarks. These lists shall be carefully compared by the registrars of each precinct with the registers thereof, and with each other, and then certified by them in the form prescribed for the lists returned to the board of deputy state supervisors, and at the opening of the polls at the next succeeding election, shall be there produced by them for the use of the judges, as herein provided. [97 v. 205.]

Certificate.

Posting of lists.

Bound volume of lists.

Pamphlets.

Duplicate registration lists for use at polls.

Comparison.

Meeting for
granting or
receiving cer-
tificates of
removal or
mistake.

Correction.

Noting of
changes.

Registration
by order of
board of
deputy state
supervisors.

Such orders,
when made.

Sec. 2926*m*. On Monday, the day preceding the November election in every year, the registrars of each and every election precinct aforesaid, shall meet at two-thirty o'clock in the afternoon, at the polling place appointed for holding elections therein, and there remain in session until five-thirty o'clock, in the evening, central standard time. At this meeting, they shall receive and act upon any application for either granting or receiving certificates of removal or correction of mistakes as herein provided for; and if any material error or mistake in the description of any elector in such precinct has been discovered, he may appear at this meeting, and on good cause being shown, the registrars may then correct the same. But any change in the registers which shall be allowed by the registrars at such meeting, must immediately be noted by them in the registers and also in the books containing the duplicate lists for the use of the judges as above provided, and if not then and there so noted, shall be wholly null, and disregarded by the judges of election. At this meeting, also, and subject to the same conditions, any qualified elector of such precinct may be registered who shall appear and present an order requiring it, signed by not less than three members of the board of deputy state supervisors; provided, that no such order shall be made or considered by such board of deputy state supervisors, except in a session of said board to be held in its office on Saturday and Monday preceding the November election in every year, and during such hours as may be prescribed by the board therefor, nor unless the applicant shall appear before them personally at such sessions, after the last day of general registration, and prove to their satisfaction that he could not, by due diligence, have appeared before the registrars in his proper precinct on either of the days appointed herein, and shall furthermore comply with all the prescribed requirements for general registration. [97 v. 206.]

Where an elector has registered more than once in the same precinct, the registrars of such precinct should make correction to show but one registration. L. 11-1-06.

Meeting on
evening prior
to election.

Organi-tion.

Securing bal-
lot-boxes and
accommoda-
tions, etc.

Sec. 2926*n*. On Monday, the day preceding the November election in every year, the registrars, as judges of election, and the other two judges of election in each precinct, shall meet at the polling place appointed for holding the election therein at seven o'clock in the evening, punctually, and then and there organize as a board by electing one of their number, by ballot, as chairman. If they fail so to elect a chairman within ten minutes, they shall immediately choose a chairman by drawing lots. They shall at this meeting make all necessary arrangements for securing the ballot-boxes and the proper accommodations for themselves and the clerks of elections in receiving and counting ballots at the ensuing election, and also, if requested, for the witnesses and challengers designated by

each political party to be admitted within the polling rooms as follows, namely: At every election the executive or principal committee of each political party presenting one or more candidates for suffrage, may, by writing, certified by its chairman and secretary; and presented to the judges of election at or before this meeting, designate not more than one elector of such city as witness, and one other elector as a challenger, to attend at such election in behalf of such party. It shall be the duty of the judges of election in each and every ward or election precinct to admit the witnesses and challengers so accredited, into the polling room with themselves and the clerks at the ensuing election, and to place them so near to themselves and the clerks, that they can fully and conveniently watch every proceeding of the judges and clerks from the time of opening to the closing of the polls; no other person except the witnesses and the judges and clerks of the election shall be admitted to said polling place after the closing of the polls until the counting, certifying and signing of the final returns of such election have been completed. Before opening the polls the ballot-boxes shall be opened, if requested by a witness, so that the inside and the locks and keys may be inspected by them. No ballot-box, nor any ballot when taken from it for counting, shall be removed or screened from the constant sight of such witnesses until the counting has been closed and the certificate of the final returns completed and signed by the judges. The challengers so designated shall be so placed that they can fully see and meet each and every person offering a ballot to the judges or either of them. And at the meeting on the evening of a day preceding an election, any elector may appear and challenge the vote of any person named in the register of such precinct, and the word "challenged" shall immediately be entered by the judges opposite the name of such person on both of the duplicate lists of electors, and if he shall offer to vote at any election, the judges shall, upon such challenge, examine him under oath as to his qualifications as an elector in such precinct. [97 v. 207.]

Witnesses and challengers.

Their admission to polling place.

Who may be present during count, etc., of votes.

Inspection of ballot-boxes before opening of polls.

Same to be in plain view.

Rights of challengers.

Challenge of lists.

In selecting a chairman on the Monday evening preceding the November election, the choice must be by ballot or by lot. The rule as to "dominant party" does not apply. L. 10-26-06.

See note to Sec. 2966-3, as to "Executive Committee"

See also Oliver v. Bode 3 N. P. 298; 60 D. 57.

Sec. 29260. On the day of the November election in every year, and of any other election the polls shall be opened by the judges of elections appointed and organized as in this act provided, by proclamation made by the chairman, at the hour of five-thirty o'clock in the morning, standard time, and shall be closed by proclamation, at the hour of five-thirty o'clock in the afternoon.

Opening and close of polls.

The registrars acting as judges shall punctually, at the hour of opening the polls, attend and produce, at the polling

Duties of registrars acting as judges.

Location of
ballot-box.

Penalties.

Challenges.

places in the several precincts, the registers, affidavits of sick or absent electors and accompanying papers, and also the duplicate certified lists of electors, prepared by them as herein required. The chairman of the board shall at once designate two members of the board of judges of different political parties, each to hold and to have charge of one of the said duplicate lists; no ballot shall be deposited in the ballot-box until the name of the elector offering it, shall first have been stated by him, and announced aloud by the judge holding the ballot, nor until it shall have been found on both such lists, and so announced by both of the judges holding such lists. Every ballot must be put in the ballot-box, by the judge who receives it from the elector; and such judge and the ballot-box must always be so placed, and the ballot be so held forth by the judge, that it shall be in full view of the elector, until actually put into the box. For any wilful violation or evasion of this rule by any such judge, he shall at once be expelled from his office by the other three judges, and the vacancy filled in the manner provided by section 2926e, and immediately upon the depositing of the ballot in the box, each of the said judges shall check off the name of such elector on the duplicate list, held by him, by placing a "V" distinctly with ink in the column under the word "voted," and in the line with the elector's name; provided, that it shall be unlawful for any judges or clerks of election, or of any of the witnesses or challengers, admitted into the polling rooms at the election, at any time while the polls are open, to have in his possession, or to distribute, or to give out any ballot or ticket to any person on any pretense, nor during the counting or certifying of the votes, to have any ballot or ticket in his possession or control, except in the proper discharge of his duty, in receiving, counting or canvassing the votes as required by law; but this prohibition shall not extend to the lawful exercise by any judge or clerk of elections, or witness, or challenger aforesaid, or his individual right to vote at such election. Any registered elector, when offering to vote, may nevertheless be challenged by any elector as a non-resident, or for any of the causes allowed by law, and he shall be sworn, and the same proceedings thereupon had as in other cases; in all cases of challenge the judges holding the duplicate lists aforesaid, shall note the word "sworn" opposite the name of the person challenged. And except as otherwise required herein, the judge of elections appointed, as herein provided, shall have the same powers and discharge all the duties conferred or required by the general laws of the state regulating elections. But except where some authority or duty is herein allotted to one of said judges, no order or action on their part shall be of any validity without the concurrence of three members of said board of judges in any precinct. [98 O. L. 31.]

When the said section is construed with other legislation in *pari materia*, it does not appear that it denies or abridges the right of citizens to vote. The said section is intended to, and does facilitate rather than impede the exercise of the right of suffrage and it is reasonable, uniform and impartial.

Gentsch et al. v. State Ex rel. McGarry, et al. 71 O. S. 151.

Section 29260, Revised Statutes, is a law of a general nature and operates uniformly throughout the state.

Gentsch et al. v. State Ex rel. McGarry, et al. 71 O. S. 151.

Sec. 2926p. Immediately upon the close of the polls at any and every election in such cities, the number of electors entered and shown on the poll-books as having voted, shall be first certified therein and signed by the board of judges and the clerks; and before any other or further proceedings the chairman of the board shall make a proclamation in a loud voice in the street outside of the polling room, stating the number of voters so shown and certified on the poll-books. The number of electors who shall have been checked on each of the duplicate lists as having voted, shall next be counted and compared each with the other, and with the number so shown in the poll-books, and the result shall be at once certified in the poll-book and signed by the judges. And in counting those who are checked, the word "no" shall at the same time be entered in ink in the same column opposite the name of each and every elector who is not so checked off. In all cases of disagreement or doubt on any question during the election or counting, the judges may refer to the original registers, and they shall be conclusive when relevant. The ballot-box shall then, without any adjournment or delay be opened, and without opening any ballot or ascertaining its contents, the number of ballots shall first be counted. If the number of ballots exceeds the number of names on the poll-books, the ballots shall be replaced in the box, and one of the judges shall, with his back to the box and without seeing it, draw out, without showing them, and destroy a number of ballots equal to the excess. And, if during the counting of the ballots or at the conclusion of the counting, an excess of ballots be discovered, all the ballots shall be returned to the box, and after being thoroughly mingled the excess shall in the manner directed above, be drawn out and destroyed, and the count corrected accordingly. In all cases where ballots have thus been drawn out and destroyed, a minute of the number destroyed and the reason, shall be made on the tally-sheet. The count shall then commence and proceed without interruption, or delay, and in no case shall cease until it is completed, proclaimed, and the final result certified as herein required. As soon as the ballots have been counted and tallied, and the clerks have estimated the number tallied for each candidate, the chairman

Certificate and proclamation of total vote cast.

Electors checked on duplicate lists.

Questions of doubt.

Opening of ballot-box and counting of ballots.

Excess of ballots to be destroyed.

Minute of destroyed ballots.

Completion of count.

Proclamation
of result.

Certificate of
result for
board of
deputy state
supervisors.

Duty of
judges.

Abstracting
result.

Signing of
tally-sheets.

Numbers: how
expressed.

Session of
board of
deputy state
supervisors
on day of
election.

Reports of
election.

Assignment
of police.

Certificate in
case of
involuntary
mistake in
registering.

Notice to
registrars and
judges of
granting of
certificate and
cancellation
of erroneous
registration.

of the board shall make a second proclamation in the same manner as the first, stating the whole number of votes cast, and the number counted and tallied for each candidate; and this proclamation shall be prima facie proof of the result. The judges and clerks in every precinct shall at the same time make out and certify a summary statement of the number of votes cast therein, and the number counted and tallied for each candidate as announced in the proclamation, and dispatch the same without delay by a special messenger, and in a sealed envelope to the board of deputy state supervisors at their office. The judges of election shall also, as soon as the result has been proclaimed, announce it to the board of deputy state supervisors from the nearest police station, or from a telegraph or telephone station if nearest to them. At the request of any of the persons designated to witness the counting of the ballots, the judges and clerks of elections shall also sign and deliver to him a certificate containing the same statements as required to be made to the board of deputy state supervisors. After completing the counting and enumeration of the ballots, and proclaiming and issuing the statement of the result, as hereinbefore directed, the number of votes for each person shall be set down in the tally-sheets, under the inspection of the judges and certified and signed by them in manner and form as prescribed by law. In all certificates the number of votes shall be fully written out in words, and also stated in figures. [97 v. 209.]

Sec. 2926q. The board of deputy state supervisors shall convene in session at their office at five-thirty o'clock a. m. on the day of every election in such cities, and remain in session continuously until the statements giving the result of the election, as required above, shall have been received from every precinct in such city. The board shall have power to employ messengers, to use the telephone and telegraph, direct the police force of the city, and use any other lawful means to secure prompt and correct reports from the election judges, as above required. The police authorities shall assign at least one policeman to do duty in each precinct on every day of an election. The board shall also have authority during said day, in case any elector through no mistake or negligence of his own, shall have been registered in the wrong precinct, to issue to such elector a certificate showing such fact, and such certificate when presented by such elector to the proper registrars and judges, shall entitle said elector to vote in his proper precinct, and such mistake shall be noted on the register. When any such certificate is issued, the board of deputy state supervisors shall immediately notify the registrars and judges of election of the precinct wherein such elector was so improperly registered of the issuing of such certificate, where-

upon such erroneous registration shall be cancelled by them, a proper note thereof being made in the column for "remarks." [97 v. 210.]

Sec. 2926r. The judges of elections, after having set down the number of votes for each person, and certified and signed the same in the poll-books and tally-sheets in the manner prescribed by law, shall put under cover one of the poll-books and tally-sheets, seal the same, and direct it to the clerk of the court of common pleas; the other poll-book and tally-sheet shall be sealed in like manner and directed to the board of deputy state supervisors; they shall then destroy all the ballots so counted or found in the ballot-box by burning the same completely; the judges, before separating, shall designate two of their number as messengers (by lot if they cannot agree), one of whom shall personally and within twenty hours from the close of the polls, deliver to the clerk of the court of common pleas the poll-book and tally-sheet so addressed to the said clerk, and the other shall personally and within twenty hours, as above, deliver the other poll-book and tally-sheet to the board of deputy state supervisors at their office; the chairman of the precinct board of elections shall safely return the registers, the duplicate lists made therefrom, the ballot boxes and keys thereof, and all affidavits or papers accompanying them to the board of deputy state supervisors or the clerk, at their office within twenty hours; and the judges and clerks of elections shall not adjourn, disperse, nor cease from proceeding as hereinbefore required, until all the said requirements have been actually executed and completed in manner and form as prescribed by law. [97 v. 211.]

Disposition of
poll-books and
tally-sheets.

Ballots to be
burned.

Return of
registers, etc.

Completion of
work without
adjournment.

No express provision is made for the preservation of these returns for any definite time, but the clerk should retain such returns in a suitable place for a reasonable period after each election. It would be well for the clerk to retain them for at least one year. L. 4-3-05.

Sec. 2926s. The county board of deputy state supervisors, on demand of any candidate, shall compare the returns as received by the county clerk from the precincts in any city with the certified statement sent by the judges of elections to the board of deputy state supervisors as herein required, and if found to disagree, the number certified in the statement last mentioned shall be taken as correct and counted, unless proof of their returns received by the county clerk, satisfactory to the board of deputy state supervisors, shall be made by the judges, clerks, and witnesses of the counting. And for the purpose of adjusting such discrepancy, and determining the true result of the election, the board of deputy state supervisors shall also summon witnesses and examine them under oath, as to the proceedings and proclamations at such election in any precinct, and may also view and consider as part of the rec-

Adjustment of
discrepancies
between re-
turns to clerk
and that re-
ceived by
board of
deputy state
supervisors.

ord, the poll-books and tally-sheets, registers, and duplicate lists made therefrom, and deposited as herein provided; but such inquiry shall be limited exclusively to determining which shall be adopted, namely: The returns as received by the county clerk, or the certified statement as received by the board of deputy state supervisors, as proof of the true vote at the close of the polls in any precinct. [97 v. 211.]

It is the duty of county canvassers to correct clerical errors apparent on the face of the returns made to the clerk of the court.

Esker v. McCoy, 5 O. D. (Reprint) 694.

Salaries of members and clerk of board of deputy state supervisors in counties containing registration cities.

Minimum compensation.

Maximum compensation.

How additional compensation paid.

Sec. 2926*t*. Each deputy state supervisor, in counties containing cities in which registration is required, shall, in addition to the compensation provided in section 4 of the supervisory election law, section (2966-4), receive for his services the sum of five dollars for each election precinct in such city; and the clerk in such counties in addition to his compensation, so provided, shall receive for his services the sum of six dollars for each election precinct in such city; and the compensation so allowed such officers during any year, shall be determined by the number of precincts in such city at the November election of the next preceding year. Provided that the compensation paid to each of said deputy state supervisors under this section, shall, in no case, be less than one hundred dollars per annum, and that the compensation paid to the clerk under this section, shall in no case, be less than one hundred and twenty-five dollars per annum; and provided, further, that, in such counties, the whole amount of annual compensation paid to each deputy state supervisor and clerk under this section and under section 4 of the supervisory election law, section (2966-4) shall not exceed, in any one year, the following: In counties containing cities having a population of three hundred thousand or more, as ascertained in the manner provided in section 2926*a*, each deputy state supervisor, eighteen hundred dollars, and the clerk, twenty-five hundred dollars; in counties containing cities having a population of seventy-five thousand and less than three hundred thousand, each deputy state supervisor, fifteen hundred dollars and the clerk, two thousand dollars; in counties containing cities having a population of fifty thousand and less than seventy-five thousand, each deputy state supervisor, seven hundred fifty dollars, and the clerk, nine hundred dollars; in counties containing cities having a population of twenty-five thousand and less than fifty thousand, each deputy state supervisor, four hundred dollars, and the clerk, five hundred dollars; in all other counties containing such registration cities, each deputy state supervisor, three hundred dollars, and the clerk, four hundred dollars. The additional compensation provided by this section shall be paid monthly from the city treasury, on warrants drawn by the city auditor upon vouchers signed

by the chief deputy and clerk of the board. The registrars of each election precinct shall be allowed and paid four dollars per day, and no more, nor for more than six days in any one election, for their services as registrars. In cities containing a population of thirty thousand or more the judges of election, including the registrars as judges, and the clerks of election, shall each be allowed and paid five dollars for each election at which they serve, and no more either from the city or county, and in other cities they shall each be allowed and paid three dollars for each election at which they serve, and no more, either from the city or county. But no registrar, judge or clerk shall be entitled to the compensation so fixed except upon the allowance and order of the board of deputy state supervisors, made at a joint session, certifying that each has fully performed his duty, according to law as such, and stating the number of days' service actually performed by each, and signed by the chief deputy and clerk of the board to the city or county auditor. But for all November elections the county in which such city is located shall pay the general expenses of such election other than the expenses of registration; and such allowance and order for such expenses and compensation to such judges and clerk shall be signed by the chief deputy and clerk of such board to the county auditor of such county, who shall issue his warrants upon the county treasury for such amounts. [97 v. 212.]

Compensation
of registrars,
judges and
clerks.

General ex-
penses of
election to be
paid by
county.

Sec. 2926u. Any member of the board of deputy state supervisors or the clerk of the board, may, for any violation or neglect of the duties prescribed herein, or other good and sufficient cause, be removed at any time by the state supervisor of elections, and the vacancy shall be filled as hereinafter provided. [97 v. 213.]

Removal of
clerk and
members of
board.

Sec. 2926v. The preceding provisions shall extend to any special election authorized by law to be held in any registration city, as follows:

Special elec-
tions.

1. There shall be no general registration as provided in sections 2926h and 2926i, but on Friday and Saturday in the second week before any such election, the registrars for each precinct shall obtain the last registers made by them from the board of deputy state supervisors, and attend at the place in such precinct appointed for the registration of electors between the hours herein directed for the purpose, and receive applications for registration by such qualified electors residing therein as are not already registered, and if qualified, shall enter the same in the registers, subject to the same rules and conditions as herein prescribed as to general registration, and they shall deliver certificates of cancellation to any registered elector who is not the head of a family, and who may apply to them to cancel his registration on account of his removal from the precinct in which he was registered to another precinct,

Registration
for such
elections.

Certificates
of cancella-
tion.

Affidavits of
sick and dis-
abled electors.

Additions to
or changes in
registers.

Organization
of board of
judges.

Poll-book;
how ad-
dressed and
delivered.

Board of can-
vassers,
duties of.

New or
altered wards
and precincts.

and they shall receive such certificate from any elector presenting the same and allow him to register, if he be otherwise qualified, in the precinct to which he has removed; provided that on the day of election he will be an actual resident in such ward for twenty days immediately preceding such election; and they shall receive affidavits of sick and disabled electors, as required in section 2926i, and on such days and at their meeting on the evening preceding such election, which shall be held between the hours of five and seven o'clock in the afternoon, they shall also perform the same duties prescribed in section 2926m. The board of deputy state supervisors may, during the week previous to such election, issue orders for registration, which orders, if presented at the meeting for organization, held the evening before such election, shall be received by the registrars and be disposed of as required in section 2926m. And any additions or changes then entered by them in their registers, shall also be made in the duplicate list of voters, which, after being carefully compared with the registers and with each other shall be produced by them, together with the registers of such precincts at the opening of the polls on the day of election, and then be used, applied and disposed of by the judges in all respects as directed in section 2926o.

2. At seven o'clock in the evening preceding any such election the registrars for each and every precinct, and the other two judges of election shall meet at the polling place therein appointed for such election, and shall then and there organize as a board of judges and perform the other duties prescribed in section 2926m and in the manner therein directed.

3. The poll-book required by section 2926r to be delivered by the judges of election to the clerk of the court of common pleas, shall be addressed and delivered by them to the auditor of such city.

4. The board of canvassers of elections in each such city shall be composed of the board of deputy state supervisors and the city auditor of such city. Within four days after such election in such city, the said "board of canvassers" shall meet at the office of the board of deputy state supervisors at ten o'clock in the forenoon, at the call of the chief deputy state supervisor, and organize by electing a chairman and secretary; the returns received by the city auditor shall then be produced by him and opened and canvassed by the board of canvassers as prescribed in section 2926r and by law.

5. Whenever a new ward has been created, or the boundaries of any ward or the precincts have been changed after the general registration, and before any special election following, it shall be the duty of the board of deputy state supervisors to appoint election officers, rearrange the voting precincts, provide for registration of electors not already registered, make new registers, and certify the reg-

istration of registered electors whose voting precinct has been changed and make all necessary arrangements and regulations for holding elections in such new or altered wards and precincts; provided, that the right of any registered elector to vote shall not be prejudiced by any error in making out the certified lists of registered voters. [97 v. 213.]

The action of the board of elections as to the registration of voters in cities where the number and boundaries of the wards are changed under the new municipal code, is controlled by Sec. 2926 $\frac{1}{2}$ -5, Rev. Stat., which provides that whenever any new ward has been created or the boundaries of any ward changed after the general registration and before the April election following, the board of elections shall provide for the registration of electors not already registered, make new registers, and certify the registration of electors whose voting precinct has been changed, and the board of election of a city in such case must follow the course prescribed in said section, and is without authority to hold a general registration prior to the April election, and the expenditure of public funds for such a purpose is a misapplication of the funds of the corporation within the meaning of Sec. 1777 Revised Statutes, and will be enjoined.

Columbus v. City Board of Elections, 13 O. D. 452.

The Brannock Law is not rendered invalid by reason of the possibility that certain persons may be disfranchised at an election thereunder by reason of the construction which may be given to Sec. 2926 $\frac{1}{2}$ of the election law. Courts will presume that the true construction of the statute will be adopted and the elections so conducted as to give every elector an opportunity to register and vote.

Jeffrey, Mayor, v. State Ex rel. Butler, 4 C. C. (N. S.) 494.

An elector who registers prior to the November election in the precinct where he then resides is a registered elector in any new or altered precinct which the board of elections may establish, and within the boundaries of which his residence falls.

Columbus v. City Board of Elections, 13 O. D. 452.

Where a special election is held under the Brannock law within a registration city, only the registrars of the precincts within the local option district should attend for the special registration under this section. The board of deputy supervisors should make arrangements and give proper notice to the electors of other precincts so that the board may issue transfers to persons who have removed from precincts outside the resident district to precincts within the resident district. It is not necessary for the registrars to attend to all of the precincts of the city. L. 7-19-05.

Under paragraph 5 of this section, the board has authority, where the boundaries of any precinct have been changed after the general registration, to provide for the registration of electors not already registered and make new registers and certify the registration of registered electors whose voting precinct has been changed, and make all necessary arrangements and regulations for holding elections in such new or altered wards and precincts. L. 2-20-05.

Where a special election is held in a registration city, the registrations provided for in this section should be provided by the board of deputy state supervisors.

Where a special election is held in a registration city for the purpose of submitting the question of the issue of bonds to a vote of the people, special registration must be conducted as provided in this section of the registration law. L. 4-21-05.

Permitting
false registra-
tion.

Refusing
registration.

Penalty.

Inducing
same,
unlawfully.

Inducing neg-
lect of duty.

Penalty.

Fraudulent
registration;
penalty.

Inducing
same;
penalty.

Obtaining
registration
by personat-
ing another;
penalty.

Hindering
registration.

Sec. 2926a. 1. Any registrar of electors, or other registering officer, who enters or consents to the entry in any register or duplicate list of electors in any precinct, of the name of any person whom he knows or has good reason to believe is not a qualified voter in such precinct, or who on request, refuses, neglects or hinders the registration of any person, who is a qualified voter in such precinct, and offers to comply with the requirements of the law for that purpose, shall be imprisoned in the penitentiary not less than one year nor more than five years.

2. Whoever, by any gift, promise or offer, or by coercion, intimidation, or other unlawful means, induces or influences, or attempts to induce or influence any registrar of electors, or other registering officer, to enter in the register or duplicate list of electors in any precinct, the name of any person, real or fictitious, living or dead, who is not a qualified elector therein, or who shall fraudulently induce any registrar or registering officer to refuse registration in a precinct to any person lawfully entitled to be registered as an elector therein, or unlawfully prevent, hinder or delay any registrar or registering officer from registering any person lawfully entitled to be registered, or to induce or influence such registrar or registering officer to violate or refuse or neglect the execution of any rule or duty touching his office and prescribed by law, shall be imprisoned in the penitentiary not less than one year nor more than three years.

3. Whoever fraudulently and knowingly obtains or attempts to obtain registration, as an elector, in any precinct in which he is not a qualified elector, shall be imprisoned in the penitentiary not less than one year nor more than three years.

4. Whoever knowingly induces or attempts to induce, aid or abet any person to obtain or apply for registration as an elector in any precinct where such person is not a qualified elector, shall be imprisoned in the penitentiary not less than one year nor more than three years.

5. Whoever falsely personates, or assumes the name of any other person, real or fictitious, living or dead, in obtaining or attempting to obtain registration in such assumed name as an elector in any precinct, or falsely obtains or applies for registration as an elector in any name other than his own, or fraudulently aids or abets any other person in committing or attempting to commit either of said offenses, shall be imprisoned in the penitentiary not less than two years nor more than five years.

6. Whoever fraudulently or by any unlawful means prevents, hinders or delays, or attempts to prevent, hinder or delay any elector from applying for registration as an elector in the precinct where such elector resides and is entitled to vote, with intent to deprive such elector of his

right to vote, shall be imprisoned in the county jail not less than thirty days nor more than six months, and fined not less than fifty dollars nor more than five hundred dollars. Penalty.

7. Whoever by any false statement or other unlawful means, procures, or aids or attempts to procure the erasure or striking out of the register or duplicate list in any precinct of the name of any elector who is qualified elector therein, shall be imprisoned in the penitentiary not less than one year nor more than three years. Procuring unlawful erasure in registration lists; penalty.

8. Any judge or clerk of election, witness, challenger, or other person whatever who is admitted into the polling room at any election, and who at any time from the opening of the polls, until the ballots are finally counted and certified, and while in said room distributes or gives out to any person on any pretense, or brings into said room, or has in his possession or control any ballot or ticket except that which he shall offer to the judges as his own vote if an elector, shall be fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned in the county jail not less than thirty days nor more than one year. Distributing ballots inside polling room

9. Any judge of elections who shall permit any ballot or ticket to remain or be in the ballot box at the opening of the polls, or be put into the ballot box at any time during the receiving, counting, and certifying the ballots, except when lawfully presented by an elector in the course of an election, shall be imprisoned in the penitentiary not less than two years nor more than five years. Penalty.

10. Whoever shall be guilty of wilful and corrupt false swearing or affirmation, upon any examination, by or before any registrar or registering officer authorized by this act, shall be guilty of perjury, and imprisoned in the penitentiary not less than one year nor more than five years. Permitting ballots in box at opening of polls; penalty.

11. Any member of the board of deputy state supervisors, or clerk thereof, or any registrar of electors or judge or clerk of elections in any city who shall wilfully refuse and neglect to execute and perform any duty prescribed by law to be done or performed by him, shall be fined in any sum not less than fifty dollars nor more than five hundred dollars, to be recovered in the name and behalf of such city, or imprisoned in the county jail not less than thirty days nor more than one year, or both, in the discretion of the court. Perjury penalty.

12. Whoever makes, issues, utters or publishes any false or counterfeit certificate of registration authorized by this act to be granted by registrars of electors and boards of deputy state supervisors, or fraudulently alters any such certificate granted by any said officers, or who makes, issues, utters or publishes any false certificate, statement or proclamation of the result of an election, knowing such certificate, statement or proclamation to be false, or who wilfully de- Neglect of duty by officers of election; penalty.

Counterfeiting registration certificates, etc.

Penalty.

Acting as registrar, judge or clerk without certificate of appointment.

Acting as substitute without notice, etc.

Neglect to forward notice.

Penalty.

stroys, defaces or conceals any certificate or statement of the result of an election entrusted to him or his care for delivery, shall be imprisoned in the penitentiary not less than two years or [nor] more than five years.

13. Every person who may act as registrar, judge or clerk of election without having received his certificate of appointment from the board of deputy state supervisors, except the judges and clerks appointed in the manner herein provided in section 2926c, by the judges to fill a vacancy caused by absence or removal, and every such person so appointed by the judges who shall act without notice thereof having been sent to the board of deputy state supervisors and the judges who make such appointment and neglect and fail to send notice thereof to the board of deputy state supervisors, and every person to whom such notice for the board may be given for delivery to the board who shall neglect or fail to deliver the same as promptly as possible shall be guilty of a misdemeanor, and shall be fined not more than one hundred dollars nor [or] less than twenty-five dollars, or imprisoned thirty days, or both fined and imprisoned. [98 O. L. 223.]

A dismissal upon the charge of illegal voting under Sec. 7047 R. S. is not a bar against prosecution under Sec. 2926w-3, for (at the same election) falsely and fraudulently obtaining registration.

In re. application of Dorahue, 4 N. P. 296.

As to sufficiency of indictment under this section, see Ebben-powell v. State 14 C. C. 129.

AN ACT.

To provide for a general registration of electors in villages and cities upon action of the council.

Be it enacted by the General Assembly of the State of Ohio :

Council may provide for general registration of electors in municipality.

SECTION 1. That the council of any city or village in which registration is not now required by law may provide for a general registration of electors in the several wards or precincts thereof in the manner and at the times, and on the days now provided by law for registration in cities which now or hereafter may have quadrennial registration: and when the council so provides, no person shall be deemed or held to have acquired a legal residence in any ward or election precinct in any village, for the purpose of voting therein at any election, general or special, nor shall he be admitted to vote at any election therein, unless he shall have caused himself to be registered as an elector in such ward or precinct in the manner and at the time now required by law in cities which now have or hereafter may have quadrennial registration. [98 O. L. 270.]

OPENING AND CLOSING OF POLLS.

When polls to be opened and closed.

Sec. 2920. The polls shall be opened at five-thirty o'clock central standard time in the forenoon, and kept

open up to and closed at five-thirty o'clock central standard time in the afternoon of the same day except as otherwise provided in section 29260. [97 v. 217.]

The legislature no doubt intended that, when the polls are opened, in accordance with the provisions of section 5 of the act of May 3, 1852, "to regulate the election of state and county officers," they should be kept open until the hour prescribed for finally closing the same; and good policy as well as the convenience of voters would seem to require that this legislative intent should be observed. But in this respect the statute is directory; and a departure from the strict observance of its provisions does not necessarily invalidate an election, where it appears that no fraud has been practiced and no substantial right violated.

Fry v. Booth, 19 O. S. 25.

Under the Act of May 3, 1852, after the polls of an election have been once opened, they cannot be closed for any purpose until six o'clock in the afternoon (the time then fixed by law — Ed.) without rendering the election illegal and void.

State Ex rel. v. Ritt 3 O. D. (Reprint) 475.

Sec. 2937. Immediately before proclamation is made of the opening of the polls, the judges, or one of them, in the presence and under the direction of the others, and in the presence of the people there assembled, shall open the ballot-boxes, and turn them upside down, so as to empty them of anything that may be in them, and offer to such persons as may desire it the privilege of examining the same in the presence of the judges, and then lock them; and the boxes shall not be again opened till the polls are closed, and the counting of the ballots begins. [67 v. 50, § 3.]

Judges to open ballot-boxes in presence of spectators.

LOITERING WITHIN SEVENTY-FIVE FEET OF POLLS.

Sec. 2938. At all elections held within boundaries of any municipal corporation during the receiving and counting of the ballots no person shall congregate or loiter upon the streets, alleys and sidewalks within seventy-five feet of the polling place of any election, or in any manner hinder or delay any elector in reaching or leaving the place fixed for casting his ballot, or within such distance of seventy-five feet to give or to tender or exhibit any ballot or ticket to any person other than a judge of election, or to exhibit any ticket or ballot which he intends to cast, or solicit or in any way attempt to influence any elector in casting his vote. In the discharge of their duties, the judges of election may, if necessary, appoint and require any elector or electors to aid them in making known their orders or directions and in enforcing the peace. The judges of election or any of them may order the arrest of any person violating this section, but such arrest shall not prevent such person from voting if he is entitled to do so. The sheriff, and all constables, policemen and officers of the peace, and all bystanders

To prevent loitering within seventy-five feet of polls.

Penalty.

at any election, shall immediately obey and aid in enforcing any and every lawful order made by the judges at any election in execution of the provisions of this section. And persons wilfully refusing or neglecting to perform any of the duties of this section prescribed, shall be fined not less than five dollars nor more than one thousand dollars, or imprisoned in the county jail not less than five days nor more than thirty days, or both; provided that nothing in this section shall be so construed as to conflict with sections 2926 to 2926*vv*, inclusive. [97 v. 217.]

INTERFERENCE WITH VOTERS.

When judges may order persons assembled at precinct to disperse, and penalty.

Sec. 2951. If two or more persons congregate together in or about any voting place, during the receiving of ballots thereat, so as to hinder or delay any elector in casting his ballot, the judges of election, upon complaint made thereof, and being satisfied that substantial ground of complaint exists, shall order all such persons to disperse; and upon refusal so to disperse, such persons shall each be fined not more than three hundred nor less than twenty dollars, or imprisoned in the county jail not exceeding six months, or both. [74 v. 215, § 14.]

RESIDENCE.

Who entitled to vote.

Sec. 2945. No person shall be permitted to vote at any election unless he shall have been a resident of the state for one year, resident of the county for thirty days, and resident of the township, village, or ward of a city or village, for twenty days, next preceding the election at which he offers to vote, except where he is the head of a family, and has resided in the state and in the county in which such township, village or ward of a city or village is situate, the length of time required to entitle a person to vote under the provisions of this title, and shall, bona fide, remove with his family from one ward to any other ward in such city or village, or from a ward of such city or village to a township or village in the same county, or from a township or village to a ward of a city or village in the same county, or from one township to another in the same county, in which cases such person shall have the right to vote in such township, village, or ward of a city or village, without having resided therein the length of time above described to entitle a person to vote; provided, that such voter so removing with his family from a township to a village, or ward of a city or village, in the same county, shall not have the right to vote at any municipal election held in such city or village, unless he shall have resided therein twenty days prior to such municipal election. [75 v. 15, 16, § 1.]

Sec. 2946. All judges of election, in determining the residence of a person offering to vote, shall be governed by the following rules, so far as the same may be applicable:

Rules to govern judges in determining residence.

1. That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

2. A person shall not be considered to have lost his residence who leaves his home, and goes into another state, or county of this state, for temporary purposes merely, with the intention of returning.

3. A person shall not be considered to have gained a residence in any county of this state, into which he comes for temporary purposes merely, without the intention of making such county his home.

4. The place where the family of a married man resides shall be considered and held to be his place of residence, except where the husband and wife have separated and live apart, then the place where they resided at the time of the separation shall be considered and held to be his place of residence, unless he afterward, and during the time of such separation, remove from such place, in which case the county, township, city, or village in which he resides the length of time required by the provisions of this section to entitle a person to vote, shall be considered and held to be his place of residence.

5. If a person move to another state with an intention to make it his permanent residence, he shall be considered to have lost his residence, in this state.

6. If a person remove to another state, with an intention of remaining there an indefinite time, and as a place of present residence, he shall be considered to have lost his residence in this state, notwithstanding he may entertain an intention to return at some future period.

7. The mere intention to acquire a new residence, without the fact of removal, shall avail nothing; neither shall the fact of removal without the intention.

8. If a person go into another state, and while there exercise the right of a citizen by voting, he shall be considered to have lost his residence in this state.

9. All questions of the right to vote shall be heard and determined by the judges of election. [75 v. 16, § 1.]

The question of qualification of a voter must be decided by the judges of election, at the time he presents himself to vote, and their decision must be governed by the instructions prepared and furnished by the Secretary of State under Sec. 2966-14 R. S. L. 11-5-06.

A resident of the District of Columbia or other federal territory, while engaged in the government service, may elect a place of residence for voting purposes elsewhere. But he must have a clear intention of returning to such voting residence as soon as his temporary employment in the service of the government has ended. L. 11-9-06.

The vote of a man otherwise qualified, who is not a lunatic or idiot, but whose faculties are greatly enfeebled by age, ought not to be rejected.

Sinks v. Reese, 19 O. S. 307.

Where inmates of soldiers' home may vote.

Sec. 2947. Disabled soldiers, who are inmates of a national asylum for disabled volunteer soldiers, who are citizens of the United States, and have resided in this state one year next preceding the election, and are otherwise qualified as to age and residence within the county and township, shall be held and deemed to have their lawful residence in the county and township in which such asylum is located. [67 v. 98, § 1.]

See Renner v. Bennett, 21 O. S. 431.

Cincinnati. residence of inmates of city infirmary.

(2947—1.) Sec. 1. The legal residence of any qualified elector, who may be an inmate of any infirmary owned or maintained by any city of the first grade of the first class, shall be the ward or precinct of such city where said inmate was domiciled or resident at the time of his admission to said infirmary, and shall so continue during the time he may be an inmate thereof. [87 v. 124.]

Defining the legal residence of inmates of infirmaries in certain cities.

(2947—2.) Sec. 1. The legal residence of any qualified elector, who may be an inmate of any infirmary owned or maintained by any city of the first or second class, shall be the ward or precinct of such city where said inmate was domiciled or resident at the time of his admission to said infirmary, and shall so continue during the time he may be an inmate thereof. [87 v. 316.]

Defining legal residence of inmates of infirmaries.

(2947—3.) Sec. 1. The legal residence of any qualified elector, who may be an inmate of an infirmary in any county of the state, having a population at the last federal census, in 1880, and which, at any subsequent federal census, may have a population of 42,871, shall be the ward, precinct or township of such city or county where said inmate was domiciled or resident at the time of his admission to said infirmary, and shall continue during the time he may be an inmate thereof. [86 v. 244.]

See Sturgeon v. Korte, 34 O. S. 525.

CHALLENGES.

When may challenge a person offering to vote.

Sec. 2939. Judges of election shall, and any elector may, challenge every person offering to vote, whom they know or suspect is not duly qualified as an elector under the constitution and laws of the state. [39 v. 13, § 18.]

How judges to proceed when person offering to vote is challenged.

Sec. 2940. If a person offering to vote be challenged as unqualified, one of the judges shall tender to him the following oath: "You do swear (or affirm) that you will fully and truly answer all questions as shall be put to you touching your place of residence, and qualifications as an elector at this election."

First — If the person be challenged as unqualified on the ground that he is not a citizen, the judges, or one of them, shall put the following questions:

1. Are you a citizen of the United States?
2. Are you a native or naturalized citizen?

If the person offering to vote claims to be a naturalized citizen of the United States, he shall, before his vote shall be received, produce, for the inspection of the judges of the election, a certificate of his naturalization, and also state under oath or affirmation, that he is the identical person named therein; but the production of the certificate shall be dispensed with if the person offering to vote state, under oath, when and where he was naturalized, that he has had a certificate of naturalization, and that, against his will, the same is lost, destroyed, or beyond his power to produce to the judges of the election; or if he state, under oath, that by reason of the naturalization of his parents, or one of them, he has become a citizen of the United States, and when and where his parent or parents were naturalized, the certificate of naturalization need not be produced.

Second — If the person be challenged as unqualified on the ground that he has not resided in this state for one year immediately preceding the election, the judges, or one of them, shall put the following questions:

1. Have you resided in this state for one year immediately preceding this election?
2. Have you been absent from this state within the year immediately preceding this election? If yes, then—
3. When you left this state did you leave for a temporary purpose, with the design of returning, or for the purpose of remaining away?
4. Did you, while absent, look upon and regard this state as your home?
5. Did you, while absent, vote in any other state?

Third — If the person be challenged as unqualified on the ground that he is not a resident of the county or precinct where he offers to vote, the judges, or one of them, shall put the following questions:

1. Have you resided in this county for thirty days last past?
2. Have you resided in this precinct for twenty days last past?
3. When did you last come into this county?
4. When you came into this county did you come for a temporary purpose merely, or for the purpose of making it your home?
5. Did you come into this county for the purpose of voting in this county?
6. Are you now an actual resident of this precinct?

Fourth—If the person be challenged as unqualified on the ground that he is not twenty-one years of age, the judges, or one of them, shall put the following question:

Are you twenty-one years of age, to the best of your knowledge and belief?

The judges of election, or one of them, shall put all such other questions to the person challenged, under the respective heads aforesaid, as may be necessary to test his qualifications as an elector at that election. [54 v. 136, § 13.]

See *Esker v. McCoy* 50 O. D. (Reprint) 694.

If he refuses to answer any question, vote to be rejected.

Sec. 2941. If a person challenged refuse to answer fully any question put to him, as provided in the last preceding section, the judges shall reject his vote. [39 v. 13, § 14.]

Further oath if challenge not withdrawn.

Sec. 2942. If the challenge be not withdrawn after the person offering to vote has answered the questions put to him as aforesaid, one of the judges of election shall tender to him the following oath: "You do solemnly swear (or affirm) that you are a citizen of the United States, of the age of twenty-one years; that you have been an inhabitant of this state for one year next preceding this election; that you are now an actual resident of this precinct; and that you have not voted at this election." [39 v. 13, § 15.]

Rejection of vote of person who refuses to take oath, or is not a legal voter; oaths of witnesses.

Sec. 2943. If any person refuses to take the oath so tendered, his vote shall be rejected; and after such oath has been taken a majority of the judges may refuse to permit such person to vote if they are satisfied from record evidence, or the testimony adduced before them that he is not a legal voter; otherwise the vote shall be accepted; and they may administer the necessary oaths to all witnesses brought before them to testify to the qualifications of the person offering to vote. [90 v. 310.]

See *Jeffries v. Ankenny* 11 O. 372.

When clerk to enter on poll-book the word "sworn."

Sec. 2944. Whenever the vote of any person is received after he has taken the oath prescribed in section two thousand nine hundred and forty-two, the clerks of election shall write on the poll-book, at the end of such person's name, the word "sworn." [39 v. 13, § 17.]

How ballot to be received and deposited, etc.

Sec. 2950. The judge to whom a ticket is delivered shall, upon the receipt thereof, pronounce with an audible voice the name of the elector; and if no objection be made as to the right of such elector to vote, and the judges are satisfied that he is a citizen of the United States, and legally entitled, according to the constitution and laws of this state, to vote at the election, he shall immediately put the ticket into the box, without inspecting the names written or printed thereon; and the clerks of the election shall enter the name of the elector, and number, in the poll-books, in the manner and form provided by law. [97 v. 217.]

BALLOT LAWS.

(2966-13.) Sec. 1. That hereafter elections of all public officers, except road supervisors, and all officers of original surveyed townships, in this state, shall be conducted according to the provisions of this act and existing laws not inconsistent therewith. [97 v. 225.]

Conduct of
elections of
public officers.

Non-observance of the requirements of the election law which did not affect the result of the election, its fairness and honesty, did not invalidate the election, although the requirements are mandatory in form.

Gregg v. Rogers, 1 N. P. 117.

Election laws are to be construed liberally so as to preserve, if possible, and not defeat the choice of the people as expressed at an election.

Fike v. State, 4 C. C. (N. S.) 81.

A special election in a city to vote on the question of constructing a new school building, or the issue of bonds, should be conducted by the deputy state supervisors, and held at the regular voting precinct. L. 6-18-03.

Nominations of manager of agricultural societies is not required to be made in accordance with the ballot laws, but may be governed solely by the action of the board of agriculture of the state or county under whose auspices such elections are held, such name should not be placed upon the regular ballot. L. 9-28-03.

Member of the County Agricultural Board is not a public officer within the meaning of this section. L. 10-12-03.

(2966-14.) Sec. 2. In addition to the duties now imposed on him by law, the secretary of state shall prepare and furnish to the deputy state supervisors of elections, for their guidance, forms of all the blanks, cards of instruction, including poll-books and tally-sheets, certificates of nomination and designs, provided for hereinafter, for the conduct of elections in this state. [90 v. 268.]

Forms for
guidance of
deputy state
supervisors of
elections.

Sec. 2966-17. No person being a candidate for any office to be filled at an election shall serve as deputy state supervisor or clerk thereof, or as a judge or clerk of elections in any precinct at such election; and any person serving as deputy state supervisor or clerk thereof, judge or clerk of election contrary to the provisions of this section, shall be ineligible to any office to which he may be elected at such election. [95 v. 47.]

Candidate in-
eligible as
deputy state
supervisor or
clerk thereof,
or as judge or
clerk of elec-
tions.

An officer of a municipality may act as a member of the board if his duties as such officer do not interfere with his duties as a member of the board. But when a deputy supervisor, or a clerk of the board becomes a candidate on the ticket at an election under control of the board of deputy state supervisors, such officers must resign from the latter board. L. 10-15-06.

Where the presiding judge of an election was a candidate for an office to be voted for at such election, such judge so acted

in violation of this section, but such illegal action would not render invalid the election of any other candidate elected at such election. L. 4-11-03.

NOMINATIONS.

Nominations
of candidates.

Certificate of
nomination.

(2966-18.) Sec. 6. Nominations of candidates for public office may be made as herein provided, and when not invalidated or withdrawn, the names of such candidates shall be printed on the ballots. Any convention, caucus, meeting of qualified electors, primary election held by such electors, or central or executive committee, representing a political party, which at the next preceding general election polled at least one per cent. of the entire vote cast in the state, may make one nomination for each office to be filled at the following election, which nomination, to be valid, must be certified as hereinafter provided. Every certificate of nomination shall state such facts as are in this act required for its acceptance, and shall be signed by the proper officers of such convention, caucus, meeting, primary election or committee, who shall add to their signatures their places of residence and post-office address, and make oath before an officer qualified to administer the same, that the facts stated in the certificate are true to the best of their knowledge and belief. A certificate of the oath shall be annexed to the certificate of nomination. Such certificate of nomination shall also state the names and address of a committee authorized to represent such political party, and such committee shall have power to fill vacancies which may occur in the list of nominations, unless it be otherwise specially ordered at the time of the selection of such committee and so certified. [89 v. 434.]

Within the meaning of section 2966-18, Revised Statutes, the chairman and secretary of a nominating convention are "proper officers" to execute certificate of nominations made by such convention.

State Ex rel. Milner v. Jones, Secretary, 74 O. S. 418.

A person who acts as secretary of two rival conventions may be compelled by mandamus to execute certificates of nomination made by each convention, in order that rival candidates may present their claims for determination by the election board named in Section 2966-23, Revised Statutes.

State Ex rel. Milner v. Jones, Secretary, 74 O. S. 418.

Upon application of this character the court will consider only questions relating to the relator's right to such certificate of nomination, leaving all questions involved in the validity of the claims of rival candidates to be the nominee to be determined by said election board.

State Ex rel. Milner v. Jones, Secretary, 74 O. S. 418.

Political parties, being voluntary associations, the conventions of such parties are necessarily the sole judges of the elections, returns and qualifications of their members, and courts of equity can not restrain the members of such conventions or the members of the committees on credentials from arbitrarily seating certain delegates therein.

In re, contempt v. Grear Jr. 6 N. P. 312.

Either political party may nominate and have placed on its ticket, as candidates for offices, persons who have been nominated for the same office by another political party.

Gregg v. Rogers, 1 N. P. 117.

The requirements of Section 6 (89 O. L. 434) that certified nominations of candidates for public offices must be made by "convention, caucus, meeting of qualified electors, primary election held by such electors or central or executive committee, representing a political party, which at the next preceding election polled at least one per cent. of the entire vote cast in the state" is not repugnant to any provision of the constitution.

State Ex rel. Richard Plimmer v. Poston et al. 58 O. S. 620.

A number of citizens cannot caucus for the purpose of nominating a ticket. A ticket may be nominated by caucus only by an existing political party. A citizens ticket must be nominated by petition. T. 4-20-96.

The committee named in the nomination papers would have no authority to fill any vacancy which may occur in the list of nominations, whether by death, withdrawal or any other cause which might create a vacancy, but such committee would not have the power to make a nomination for an office for which no nomination has been made by the party, unless the convention, caucus or other nominating body, would by resolution confer such power specially upon the committee. In the absence of such special power the failure to make a nomination is not a vacancy which may be filled by the committee in the nomination papers. L. 3-13-01.

Where a "citizens' ticket" has been nominated by a caucus or convention and the certificate thereof filed with the board of deputy state supervisors, it is the duty of the deputy state supervisors to disregard and reject such ticket. The proper manner for electors to procure the nomination of a citizens' ticket is by petition. L. 3-24-02.

Where a political party has left a place on a ticket vacant, such omission does not constitute a vacancy which the committee has authority to fill, but under the general power conferred by this section, the central or executive committee of such party has authority to make an original nomination to supply such omission. L. 10-22-04.

Where nominations of candidates for county offices have been made by any convention or primary election of a political party of a county under this section, and such nominations have been duly certified to the board of deputy state supervisors of elections of such county, and objections thereto have been filed in writing within five days after such nominations have been filed, such deputy state supervisors have authority under section 2966-23 to consider and determine all such objections and questions so arising, and that their decision in such case is final. L. 9-21-06.

Sec. 6a. It shall not be lawful, however, for any committee, appointed for the purpose of filling vacancies, in cases where no nominations were made originally for a particular office, to name a candidate of another political party for said office, or to name a candidate nominated by petition, it being the intent of this act that when the nomination of a candidate of one party is endorsed by another that it shall be done at the time and in the manner provided for original nominations. [98 O. L. 176.]

Substitution of name of candidate of other party or nominee by petition unlawful.

NOMINATIONS BY PETITION.

Nomination
of candidates
by nomination
papers.

Annual reg-
istration
cities.

Signers to
name com-
mittee to fill
vacancies.

Signer
pledged to
vote for nom-
inee or nomi-
nees.

Residence of
signers to be
stated; can
subscribe to
but one nom-
ination; oath
by one of the
signers.

(2966-20.) Sec. 7. Nominations of candidates for any county, township, municipal or ward office, or members of the board of education may be made by nomination papers, signed in the aggregate for each candidate by not less than three hundred qualified electors of the county, or fifty qualified electors of the city, or twenty-five qualified electors of the township, ward or village, or twenty-five qualified electors of either sex of the school district, respectively; except in counties containing annual registration cities, such nomination papers shall be signed by petitioners not less in number than one for every fifty persons who voted at the next preceding general election in such county. Nominations of candidates for other offices may be made by nomination papers, signed for each candidate by qualified electors of the state or the district or division for which such candidates are nominated, not less in number than one for every one hundred persons, who voted at the next preceding general election in the state or such district or division. Signers of such nomination papers shall insert in them the names and addresses of such persons as they desire, to the number of five, as a committee, who may fill vacancies caused by death or withdrawal. Such nomination papers shall contain a provision to the effect that each signer thereto thereby pledges himself to support and vote for the candidate or candidates whose nominations are therein requested. Each elector signing a nomination paper shall add to his signature his place of residence, and may subscribe to one nomination for each office to be filled, and no more. One of the signers to each such separate paper shall swear that the statements therein are true, to the best of his knowledge and belief, and the certificate of such oath shall be annexed. [97 v. 226.]

The requirement of Sec. 7 of the Act of April 8, 1898, (93 O. L. 93.) that papers to secure the nomination of candidates for public offices "shall contain a provision to the effect that each signer thereto pledges himself to support and vote for the candidate or candidates whose nominations are therein requested," operating uniformly and impartially upon all classes of electors and interposing no unreasonable impediment to the exercise of the elective franchise, is valid.

State Ex rel. v. Poston, 59 O. S. 122.

It is not necessary to have a separate petition for each candidate. A group of candidates may be nominated by the same election, but in such case it is necessary that the number of signatures to such group of candidates, shall be equal to the number required by this section. L. 9-3-05.

If the board of deputy state supervisors and inspectors of a county, having under consideration the sufficiency of nomination papers, discover among the signers thereto the names of persons known to have participated in the nomination of other candidates for the same offices by a primary or caucus of a political party, such fact may be considered by the board, upon the question of good faith of such signers, and if the board are of the opinion

that such names are placed thereon for purposes of frauds or misrepresentation, they are at liberty to disregard the same. L. 9-23-05.

A ticket nominated by petition is not entitled to go under a party ticket, as a regular party ticket. L. 11-13-05.

The manifest intent of this provision is to limit the signers to nomination papers to actual voters of the district. As a safeguard, the legislature has required that the signer shall add, to his signature, his place of residence. Omission to give street and number, would probably not render the signature void, in the absence of evidence of fraud, but enough should appear on the face of the petition to indicate with reasonable certainty "the place of residence." L. 10-19-06.

A citizens' ticket, nominated by petition, and which polled at least one per cent of the entire vote, does not entitle a similar ticket to a place on the ballot at a subsequent election, without a petition as provided by section 2966-20. Only those parties which have a state organization, and which cast the requisite number of votes in the entire state are entitled to representation on the ballot as a party. L. 3-28-01.

CERTIFICATES OF NOMINATION — WHAT TO CONTAIN.

(2966-21.) Sec. 8. All certificates of nomination and nomination papers shall, besides containing the names of candidates, specify as to each (1) the office for which he is nominated; (2) the party or political principle which he represents, expressed in not more than three words; (3) his place of residence, with street and number thereon, if any; provided, however, that in nominations by petition, the certificate may designate, instead of a party or political principle, any name or title which the signers shall select, and candidates nominated by petition, without distinctive appellations, shall be certified as independent candidates. In case of electors of president, and vice president of the United States, the names of the candidates for president and vice president shall be added to the party or political appellation. [89 v. 435.]

Contents of
certificates of
nomination
and nomina-
tion papers.

CERTIFICATES OF NOMINATION — WHEN FILED.

(2966-22.) Sec. 9. Certificates of nomination and nomination papers of candidates for presidential electors and state offices shall be filed with secretary of state not less than thirty days previous to the day of the election at which the candidates are to be voted for; certificates of nomination and nomination papers for the nomination of candidates for county offices shall be filed with the deputy state supervisors not less than twenty days previous to the day of election; certificates of nomination and nomination papers for the nomination of candidates for offices to be filled by the electors of a district lying within a county shall be filed with the deputy state supervisors of the county not less than twenty days previous to the day of election; and for offices to be filled by the electors

Filing of cer-
tificates of
nomination
and nomina-
tion papers.

of a district, circuit or subdivision of a district, composed of two or more counties, with the chief deputy state supervisor of the county in the district, circuit or subdivision containing the greatest number of inhabitants, as ascertained by the last federal census, not less than twenty-five days previous to the day of election; certificates of nomination and nomination papers for the nomination of candidates for township or municipal offices, or members of the board of education, shall be filed with the deputy state supervisors not less than fifteen days previous to the election; certificates of nomination and nomination papers for municipal officers and for members of boards of education in municipalities situated in two or more counties shall be filed with the board of deputy state supervisors of the county containing the majority population of said municipality not less than fifteen days previous to the election. [97 v. 227.]

The requirement of Section 2966-22, Revised Statutes, which provides that certificates of nomination and nomination papers of candidates for offices to be filled by the electors of a district, etc., shall be filed with the chief deputy state supervisor of the county in the district, etc., containing the greatest number of inhabitants as ascertained by the last federal census, nor less than twenty-five days previous to the day of election, is a limitation upon the power to so file and is not intended to require that objections and other questions arising in the course of nominations of candidates shall be kept open and undecided until twenty-five days before the day of the election.

State Ex rel. Hildebrandt v. Stewart, Chief Deputy, 71 O. S. 55.

The requirement of Section 9 of the Election Laws of Ohio (93 Ohio Laws 189), that all cities where the voters are registered on nomination the city officers shall be filed with the city board of elections not less than fifteen (15) days previous to the date of election, is not mandatory.

State Ex rel. Fulton v. Deputy State Supervisor, 17 C. C. 397.

The provisions of the law fixing the time within which nominations shall be filed is mandatory, and if not strictly complied with the names of persons afterwards certified to the board, should not be printed upon the ballot. K. 3-27-97.

While this section should be observed by the board, it should not apply in a case where an effort was made to file within time, but owing to the absence of the board and clerk the presentation of the paper was delayed. In such case the papers should be dated as of the date on which such attempt to file was made. L. 10-25-06.

OBJECTIONS TO CERTIFICATES.

Preservation and inspection of certificates of nomination and nomination papers.

Objections to their validity.

(2966-23.) Sec. 10. Certificates of nomination and nomination papers, when filed, shall be preserved and be open, under proper regulations, to public inspection; the certificates of nomination and nomination papers being so filed, if in apparent conformity with the provisions of this act, shall be deemed to be valid, unless objection thereto is duly made in writing, within five days after the filing thereof. Such objections, or other questions arising in the

course of the nomination of candidates for state officers and presidential electors shall be considered by the secretary of state, and his decision shall be final. Such objections or other questions arising in the course of nominations of candidates for county offices or offices of a district lying within a county shall be considered by the deputy state supervisors of the county, and objections or questions arising in the course of nomination of candidates for district or circuit offices or offices in a subdivision of a district shall be considered by the chief deputy state supervisors and clerks of said election boards of the several counties comprising the district, circuit or subdivision, and their decision shall be final; and the votes of at least three deputy state supervisors for the county, or a majority of the chief deputies and clerks of the district or circuit or subdivision of a district, shall be necessary to a decision; but in case no decision can be arrived at, the matter in controversy shall be submitted to the state supervisor of elections, who shall summarily decide the question thus submitted to him, and his decision shall be final. Objections and questions arising in the course of nominations for township or municipal offices, or members of the board of education, shall be considered by the deputy state supervisors; the decision of such deputy state supervisors shall be final, and in case of disagreement the matter shall be referred to the state supervisor of elections and his decision shall be final; but in municipalities within the terms of this act which are situate in two or more counties, the objection or question may be submitted, by the board of deputy state supervisors of the county where filed, directly to the state supervisor. In case an objection is made, or question arises, notice shall forthwith be mailed to the candidates affected thereby, and to any party committee especially interested. It shall be proper for the officers above named, in the decision of any question as to the proper political or party designation of candidates, to distinguish between candidates nominated by certificates of nomination and those nominated by petition or nomination papers; and any party or political designation certified by petitioners in nomination papers may be rejected if, from similarity to the name of any existing party, as defined in section 7, such officers shall deem it likely to mislead or confuse voters. [97 v. 227.]

Consideration
and decision
of such ob-
jections or
other ques-
tions.

Where two certificates of nominations for county offices, both claim to be the regular nominations of the same political party are filed, and written objections are duly filed to one of such certificates and none of the other, a controversy is thereby raised as to the validity of the latter certificate and as to it the other certificate and the written objections thereto operate as written objections within the meaning of Section 2906-23, Revised Statutes; and the court of common pleas, is without authority to restrain the deputy state supervisors of the county from considering such certificates and the controversy arising hereon and from certifying to the state supervisors of elections their failure to arrive at a decision thereon; and such court is without authority to require the deputy state supervisors, by mandamus or otherwise, to cause the names appear-

ing in the certificate to which specific objections were not filed to be printed on the official ballot.

State Ex rel. Martin v. Thompson, 71 O. S. 76.

Section 2966-23, Revised Statutes, requires that objections or other questions arising in the course of nominations for candidates for district offices, "shall be conceded to be by the chief deputy state supervisors and clerks of state election boards of the several counties comprising the district"; but such chief deputies shall not thereby constitute a board with continuing functions, nor a board in any sense. Randall v. State, 64 O. S. 57, approved and followed.

State Ex rel. Hildebrandt v. Stewart, Chief Deputy, 71 O. S. 55.

When such chief deputy state supervisors and clerks have been called together to consider objections to and controversies concerning rival nominations and they have considered the same and rendered their decision thereon and adjourned *sine die*, their functions as to such objections and controversies are at an end, and such decision is final in the sense that it is so far conclusive as to those objections and controversies that the same cannot be again considered by the chief deputy state supervisors and clerks nor by those succeeding them in office.

State Ex rel. Hildebrandt v. Stewart, Chief Deputy, 71 O. S. 55.

A person who acts as secretary of two rival conventions may be compelled by mandamus to execute certificates of nomination made by each convention, in order that rival candidates may present their claims for determination by the election board named in Section 2966-23, Revised Statutes.

State Ex rel. Milner v. Jones, Secretary, 74 O. S. 418.

Upon application of this character the court will consider only questions relating to the relator's right to such certificate of nomination, leaving all questions involved in the validity of the claims of rival candidates to be the nominee to be determined by said election board.

State Ex rel. Milner v. Jones, Secretary, 74 O. S. 418.

Upon submission of objections to certificates of nomination, by board of deputy state supervisors and state supervisors of election, his decision thereon is final, and the board of deputy state supervisors refusing to comply therewith may be compelled to do so by mandamus. And an answer stating that they have been enjoined by the Court of Common Pleas or a judge thereof, states no valid excuse for refusing to comply with the decision of the state supervisor. In such case the court of common pleas has no jurisdiction of the subject matter and its order of injunction is void.

Chapman v. Miller, et al. 52 O. S. 166.

Where it appears that such certificate has been filed in ample time in which to advertise for bids and print the ballots and no objection is made otherwise, except as to the precise time in which it was done and that the non-observance in this regard could not affect the result of the election, its fairness or honesty, such certificate so filed will be deemed to be filed within time notwithstanding the requirement of the statute is mandatory in form.

State Ex rel. Fulton v. Deputy State Supervisors, 17 C. C. 397.

A nomination was duly made at primaries, but the certificate of nomination filed with the board of deputy state supervisors of election, by mistake, did not state the fact of such nomination. It is shown by the affidavits of the chairman and secretary of the party central committee that such nomination was duly and prop-

erly made:—ordered by the State Supervisor of Elections, that the name be placed upon the official ballot. L. 10-31-04.

When such nomination papers are filed 25 days before the day of election they should remain on file with the chief deputy supervisor five days thereafter. L. 10-11-06.

See note to Sec. 2966-18, as to authority of deputy supervisors to determine objections to certificates of nomination.

VACANCIES—HOW FILLED.

(2966-24.) Sec. 11. Should any person so nominated die, withdraw, or decline the nomination, or should any certificate of nomination be insufficient or imperfect, the vacancy thus occasioned may be filed or the defect corrected in the manner required for original nominations, but must be certified to the secretary of state twenty days, or to the deputy state supervisors at least fifteen days previous to the election day. If, when the original nomination was certified, there was certified a committee authorized to represent the party as before provided, it may fill such vacancy. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which nominated, the name of the person for whom the new nominee is to be substituted, and such other information as is required to be given in an original certificate of nomination. The certificate so made shall be executed, acknowledged and sworn to in the manner prescribed for the original certificate of nomination, and shall, upon being filed with the secretary of state at least twenty days, or with the deputy state supervisors fifteen days before election, have the same force and effect as an original certificate of nomination. A vacancy occurring after the printing of the ballots may be filled by filing the proper certificate with the secretary of state at least ten days, and with the deputy state supervisors at least five days prior to the election, and the name, office and party of the candidate so nominated shall be printed on adhesive slips or pasters, by the deputy state supervisors, which shall be delivered to the judges in each precinct before the opening of the polls, and pasted by them in the proper place on the ballot, before the same is handed the elector. [90 v. 270.]

Manner of filling vacancy on ticket, or correcting defect in certificate of nomination.

Where a nomination has been duly certified to the board with whom it should properly be filed, and the candidate so nominated fails to withdraw or decline the nomination prior to the time when the nomination is required by law to be certified to the other counties, the name of the candidate cannot be stricken from the ballot. In contemplation of law the ballot is printed and there is no way of taking the name off the ticket. T. 10-29-96.

Pasters can only be used in cases where nominations have been originally made and a vacancy occurs upon the ticket after the ballot has been printed. K. 3-37-97.

If the nomination papers contained the names of a committee authorized to represent such party or petitioners, such committee

may fill such vacancy, provided the certificate of the committee with the name of the person so nominated to fill such vacancy shall be filed with the chief deputy state supervisor at least 20 days before the election, in which case the chief deputy supervisor must certify the name of such candidate so substituted to the deputy state supervisors of the other counties of the district at least 15 days before the election. L. 10-11-06.

Authority of county executive committee to fill vacancy on ticket.

(2966-24a.) Sec. 1. When a political party in its nominating convention fails to appoint a committee for the purpose of filling vacancies on the party ticket, the power to fill such vacancies shall be and hereby is vested in the county executive committee of said political party. [93 v. 224.]

DEVICE ON TICKET.

Device to designate party candidates.

(2966-25.) Sec. 12. If the certificate of nomination of any state convention shall request that the figure or device selected by such convention be used to designate the candidates of such party on the ballots for all elections throughout the state, such figure or device shall be so used until changed by request of a subsequent state convention of the same party. Such device may be the figure of a star, an eagle, a rooster, a flower, a plow, or some such appropriate symbol, but the coat of arms or seal of the state or United States, the national flag, or any other emblem common to the people at large, shall not be used as such device. [89 v. 437.]

The state supervisor of elections is not required by Section 12 of the Australian Ballot Law, to cause to be printed on the ballots to be used at an election, a device selected and certified by a state convention which did not represent a political party that at the next preceding election polled at least one per cent. of the entire vote cast for the state; nor a device certified in nomination papers for a ticket nominated by that method.

State Ex rel. Lewis v. Kinney, Secretary, 57 O. S. 221.

TRANSMISSION OF CERTIFICATES OF NOMINATIONS.

Transmission of certified copies of certificates of nomination.

(2966-26) Sec. 13. Immediately upon the expiration of the time within which certificates of nominations and nomination papers may be filed and within which objections thereto may be made as provided in section 10 [2966-23, Sec. 10], the secretary [of state] shall certify all the nominations so filed to the several deputy state supervisors together with a form of official ballot therefor; and the chief deputy state supervisor of the district, circuit or subdivision with whom the certificate of district, circuit or subdivision nominations has been filed, shall immediately certify the nominations so filed to the deputy state supervisors in all the other counties in such district, circuit or subdivision and the deputy state supervisors of the county containing the majority population of a municipality situated in two or

more counties, shall immediately certify to the deputy state supervisors of the other county or counties, copies of all certificates of nominations and nomination papers of such municipal officers or members of the board of education that have been filed with such board. [97 v. 228.]

EXPENSES — HOW DEFRAIDED.

(2966-27.) Sec. 14. All expenses arising for printing and distributing ballots, cards of explanation to officers of the election and voters, blanks, and all other proper and necessary expenses of any general or special election, including compensation of precinct election officers, shall be paid out of the county treasury as other county expenses; but, except in the case of November elections, shall be charged against the township, city, village or political division in which such election was held, and the amount so paid by the county as above provided, shall be retained by the county auditor from the funds due to such township, city, village or political division, at the time of making the semiannual distribution of taxes; the county commissioners, township trustees, councils, boards of education, or other authorities authorized to levy taxes, shall make the necessary levy to meet such expenses, which levy may be in addition to other levies authorized or required by law; the amount of all such expenses shall be ascertained and apportioned by the deputy state supervisors of the several political divisions and certified to the county auditor. In the case of municipalities situated in two or more counties the proportion of expenses charged to each of the counties shall be ascertained and apportioned by the clerk of the corporation, and certified by him to the several county auditors. [91 v. 243.]

How expenses
of election
defrayed.

It is not an abuse of discretion in the board of deputy state supervisors of elections to give the contract for the printing of the ballots to a higher bidder where there is danger that the lower bidder may by a strike of his employes be prevented from furnishing the ballots at the proper time, to be used at the election.

Pugh Printing Co. v. Deputy State Supervisors, 22 C. C. 584.

The presumption is that public officers,—in this case the deputy state supervisor of elections—have exercised a sound discretion, and the burden of proof is on plaintiff to show, with that clearness which is always necessary to move a court of equity to interfere, a state of facts which would constitute an abuse of discretion.

Pugh Printing Co. v. Deputy State Supervisors, 22 C. C. 584.

The words "lowest responsible bidder" have been held to mean not only the person having the pecuniary ability to reimburse to the state by reason of his failure to conform with the terms of the contract, but also a person who in point of skill, ability and integrity, will be most likely to do faithful conscientious work and fulfill the contract according to the letter and spirit of the law. K. 10-20-98.

The printing provided for in this section, should be let to the lowest responsible resident bidder in the county. It is evident

that the legislature intended, by requiring the notice to be published in the papers of the county, to limit the bidders and contractors to residents within such county. L. 10-16-06.

This section confers no authority on any county to charge against any township, city, village, or political division, any expense incurred in holding any election in November. Hence the County Commissioners should make a levy to meet the expense of the November election, and all such expenses must be paid by the county. T. 5-11-07.

See note to Sec. 2966-3, as to "Executive Committee."

"The Board of Elections cannot be interfered with in matters of detail pertaining to the printing of the official ballots."

State Ex rel. v. Ehrman, 2 O. D. 400, also see 40 O. D. 505.

PRINTING AND DISPOSITION OF BALLOTS.

(2966-28) Sec. 15. The printing provided for in this act, except poll books and tally sheets, shall be let by the deputy state supervisors to the lowest responsible bidder in the county, upon ten days' notice published not more than three times in two leading papers of opposite politics published in such county, but in case of special elections the deputy state supervisors may give notice by mail addressed to all the printing offices within the county, instead of publishing said notice. After the letting of the contract for the printing of the ballots, the proper officer or board shall secure from the printer and exhibit to the chairman of the local executive committee of each party represented on the ballot, for inspection and the correction of any errors appearing thereon, a printed proof of the ballot to be printed for use at the election; the person to whom the contract for printing the tickets is let, shall, in the presence of the deputy state supervisors, seal up securely in packages, one for each precinct in the county or municipality, as the case may be, the designated number of ballots to be printed for such precinct, and indorse thereon the number of ballots so printed and sealed up, and deliver the same to the deputy state supervisors at such times as they may direct. In election precincts composed of a township or a part thereof, or a municipality or a part thereof, there shall be provided for all elections, separate ballots, for each precinct, so as to enable electors residing in such precinct to cast their votes for the proper candidates in such precinct; and there shall be provided separate ballots for each district portion of such precinct which shall contain the names of the candidates for members of the board of education for which electors residing in such precinct are entitled to vote. And when a municipality contains less than fifty voters in the same township, the deputy state supervisors may provide a separate ballot and ballot box for such voters at the regular polling place in an adjoining precinct of the same county. And when territory annexed to a village for school purposes is included within such village precinct, as provided in section 2923, separate ballots, ballot box, poll books and tally sheets

Contracts for printing.

Special elections.

Submission of proof of ballot.

Sealing and delivery of ballots.

Separate ballots for each precinct.

Municipalities containing less than fifty voters.

shall be provided for such voters in municipal elections presided over by the judges and clerks of election of such precinct. [98 O. L. 234.]

See *State v. Taylor*, 55 O. S. 385.

(2966-29.) Sec. 15a. Each proposal for printing, as provided for in the preceding section, must be accompanied by a bond, executed in due form by the bidder, with at least two good and sufficient sureties, satisfactory to the board of deputy state supervisors, in a sum double the amount of his bid, conditioned for a faithful performance, pursuant to contract, of such printing as may be awarded to him; and for the payment as liquidated damages by such bidder to the board of deputy state supervisors of any excess of cost over the bid or bids of such bidder which the board of deputy state supervisors may be obliged to pay for such work by reason of the failure of such bidder to complete his contract; the bond to be null and void if no contract be awarded to him. No bid unaccompanied by such bond shall be entertained by the board of deputy state supervisors. [91 v. 116.]

Bond of bidder for printing.

DELIVERY OF BALLOTS, POLL-BOOKS, ETC.

(2966-30.) Sec. 16. Not less than three days before an election the deputy state supervisors shall summon the presiding judge of election in each precinct in such county to appear forthwith and receive the necessary blanks, poll, books, tally-sheets, certificates, cards of instruction and ballots for such precinct, and shall deliver to such judge the sealed packages of ballots, blanks, poll-books and other required papers, all of which such judge shall safely deliver and have on hand at the polling place in his precinct before the time for the opening of the polls therein; provided, however, that in registration cities when the presiding judge or chairman is chosen at the meeting of the registrars and judges of election, on the evening preceding any November election pursuant to section 2926*n* of the Revised Statutes, or on the evening preceding any special election, it shall be the duty of such judge, immediately after such meeting, to call at the office of the board of deputy state supervisors for such packages, and the deputy state supervisors shall deliver the poll-books, tally-sheets, cards of instruction and other supplies herein mentioned to the presiding judge or chairman, and provided further, that in any city having a population of 300,000 or more the board of deputy state supervisors may, by resolution, provide for the delivery of ballots through the agency of the police force of such city; and provided further, if the judge summoned to receive and deliver the ballots and other books and papers does not appear, the deputy state supervisors shall send the ballots, books and other required papers to the election officers of the precinct so as to be received by them in time for the election. [97 v. 229.]

Delivery of ballots and other supplies required in conduct of elections.

Registration cities.

Delivery in cities having a population of 300,000 or more.

Delivery of supplies when judge summoned fails to appear.

Compensation
of judges and
clerks.

Registration
cities.

(2966-52.) Sec. 36. The judge of election called by the deputy state supervisors to receive and deliver ballots, poll-books, tally-sheets and other required papers, shall receive two dollars for such service, and in addition thereto mileage at the rate of five cents per mile to and from the county seat if he live one mile or more therefrom. The judge of the election carrying the returns to the deputy state supervisors, and the judge carrying the returns to the county or township clerk, or clerk or auditor of the municipality, shall receive like compensation. Judges and clerks shall each receive as compensation the sum of three dollars for their services for each election day; provided, however, that in cities where registration is required the compensation shall remain as now fixed by law, except that the chairman elected at the meeting for organization shall receive one dollar for calling for the sealed package of ballots. [97 v. 237.]

The usual compensation allowed judges of election for the performance of their duties on election day is supposed to be in full for all services required by them as such election officers. No additional compensation may be allowed where they are called together for the purpose of determining by lot between candidates having an equal number of votes. L. 4-30-01.

The board of elections cannot allow judges and clerks of election any sum as compensation in excess of the amount fixed by law. The amount fixed by law is \$3.00 for each election, and includes all services rendered by the judges at such election. L. 11-13-05.

No additional compensation may be allowed because separate ballot boxes, and separate poll-books are required.

BALLOTS LOST, ETC.: HOW REPLACED.

Replacing of
supplies lost
or destroyed.

(2966-31.) Sec. 17. If, by any accident, or casualty, the ballots or other required papers delivered to any judge of elections or other messenger shall be lost or destroyed, it shall be the duty of such person charged with the custody thereof to report the loss at once to the deputy state supervisors from whom the same were obtained, and make affidavit of the circumstances of the loss, whereupon the deputy state supervisors shall at once resupply such person; in case such person fail or refuse to report and make proof of the loss, any qualified elector may do so, and thereupon a new supply shall be sent by special messenger, as provided in other cases.

Opening of
packages.

Where cards
of instruction
to be placed.

At the opening of the polls in each precinct, the seals of the packages shall be publicly broken, and the packages shall be opened by the presiding officer. The cards of instruction shall immediately be placed in each voting shelf or compartment provided in accordance with this act for the marking of the ballots, and in such other places as the election officers may select.

Extra ballots.

In case no ballots shall have been delivered at any polling place before the opening of the polls, or if extra

ballots shall, at any time during the time the polls remain open, be required, it shall be the duty of the deputy state supervisors, upon a requisition, in writing, signed by a majority of the election judges of such precinct, wherein the reason for demanding such ballots shall be set out, to secure the same as speedily as possible, and, if necessary, extra ballots may be printed for this purpose; provided, however, that such ballots shall conform, as nearly as possible, to the original ballots, and the printing and the care of the same shall be under the same provisions and penalties as the printing and care of the other ballots; and if, from any cause, neither the official ballots nor ballots otherwise prepared as above prescribed shall be ready for distribution at any polling place, or if the supply of ballots shall be exhausted before the polls are closed, unofficial ballots may be used, so that no elector, for lack of a ballot, shall be deprived of his franchise. [97 v. 230.]

When unofficial ballots may be used.

FORM OF BALLOT.

Sec. 3. The names of all candidates to be voted for on the first Tuesday after the first Monday in November, hereafter, shall be placed on the same ballot, arranged in single tickets or lists under the respective party, political or other designation certified, in the order and manner provided by law; provided that nothing in this section shall be construed to affect the provisions of "An act to secure a voice in school affairs to the women of Ohio on equal terms with men," passed April 24, 1894, or any special or general act providing for the election of school directors or members of boards of education and school councils. [97 v. 40.]

Ballots, how printed.

(2966-32.) Sec. 18. Every ballot intended for the use of electors, printed in accordance with the provisions of this act, shall contain the names of all the candidates whose nominations for any offices specified in the ballot have been duly made, and not withdrawn in accordance herewith, arranged in tickets or lists under the respective party or political or other designation certified. In elections for presidential electors, the names of the candidates for president and vice president shall be placed on the ticket by the secretary of state immediately following the name of the party and preceding the names of the presidential electors.

Contents of ballot.

The arrangement of the ballot shall, in general, conform as nearly as practicable to the plan hereinafter given. The tickets of the various political parties shall be printed in parallel columns, headed by the chosen devices upon a shaded background, and the party names in such order as the secretary of state may direct, precedence, however, being given to the political party which polled the highest number of votes for the head of the ticket in the next pre-

Arrangement of tickets or lists of candidates.

ceding general election, and so on. The tickets or lists of candidates nominated by nomination papers, with their party names or designations shall be printed at the right of and parallel with the tickets of political parties in such order as the secretary of state may direct; precedence, however, being given in the order above prescribed for party tickets. No ticket or list of candidates shall be printed under the name of any party containing more candidates for any office than are to be elected.

When question is submitted.

Whenever the approval of any question other than a constitutional amendment is to be submitted to a vote of the people, such questions shall be printed on a separate ballot and deposited in a separate ballot-box to be presided over by the same judges and clerks.

Form of ballot.

The ballot shall be so printed as to give each elector a clear opportunity to designate by a cross mark in a large blank circular space three-quarters of an inch in diameter below the device and above the name of the party at the head of the ticket or list of candidates, his choice of a party ticket and desire to vote for each and every candidate thereon; and by a cross mark in a blank inclosed space on the left and before the name of each candidate, his choice of particular candidates.

Indorsement.

On the back shall be printed, "official ballot," the date of the election, and facsimile of the signatures of the officers who have caused the ballots to be printed.

Printing, perforation, binding and designation of ballots.

The ballots shall be printed on the same leaf with a double stub, and separated therefrom by a perforated line, and shall be bound with the stub attached thereto, into books, or blocks, one for each voting precinct, which book or block shall contain at least twice as many ballots as there were votes cast at such precinct at the preceding general election; upon the covers of such books or blocks shall be printed the designation of the precinct for which the ballots have been prepared.

Main stub.

The main stub shall be printed as follows: Consecutive number — [after these words the consecutive number shall be printed, beginning with one and increasing in regular numerical order]; provided, however, that the deputy state supervisors may direct that such consecutive numbers shall not be printed, but shall be written by the ballot officer before delivering the ballot to the elector.

Name of voter — [after these words the clerk shall write the voter's name.]

Residence — [after this word the clerk, in cities where registration is required, is to write the voter's residence.]

Secondary stub.

The secondary stub shall be printed as follows: Name of voter or registered number — [after these words the clerk, in precincts where the registration law is in force, shall write the registered number of the voter, and in other precincts the voter's name.]

All ballots shall be printed on the best quality No. 2 book paper, in black ink, and with the exception of the heading which shall be in display, in brevier type, the name or designation of the office in lower case, and the name of the candidate therefor in capital letters, with a space of at least one-fifth of an inch following each name; the name of each candidate shall be printed in a space defined by ruled lines, and with a blank square on its left inclosed by heavy dark line; if, upon any ticket, there be no candidate or candidates for a designated office, a blank space equal to the space that would be occupied by such name or names, if they were printed thereon, with the blank space herein provided for, shall be left. The heading of each party ticket, including the name of the party, the device above and the large circle between the device and such name, shall be separated from the rest of the ticket by a heavy line, and the circle above the name of the party in which the voter is to place the cross mark, if he desires to vote the straight ticket, shall be defined by heavier lines than the lines defining the blank spaces before the names of candidates, and such circle shall be surrounded by the following words printed in heavy face nonpareil type: "For a straight ticket mark within this circle."

General provisions relative to printing of ballots.

Each party ticket shall be separated from other party tickets and bordered on either side by a heavy border or a broad solid line at least one-eighth of an inch wide, and the edges of the ballot on either side trimmed off up to the border or solid line described. [97 v. 231.]

Separation of party tickets by borders.

OHIO ELECTION LAWS.

[Main stub.]

Consecutive number

Name of voter

Residence

[Secondary stub.]

Name or registered number of voter

[illegible]

Where one, elected to an office dies before his term begins, no vacancy is thereby created in the office until the end of the term of the existing incumbent. And if this falls within thirty days of the next proper election, (Sec. 11 Revised Statutes), the vacancy cannot be filled by an election thereat.

State Ex rel. v. Dahl et al., 55 O. S. 195.

It is the imperative duty of the secretary of state, as state supervisor of elections, to send to the deputy supervisors the form of ballot to be used at an approaching election immediately upon the expiration of the time allowed for correcting the certificates of nomination.

State Ex rel. Fitzsimmons v. Taylor, Secretary, 55 O. S. 385.

The secretary having rightly performed that duty properly refused to instruct the deputy supervisor to omit from the ticket the name of a candidate who subsequently withdrew there being no nomination to fill the vacancy.

State Ex rel. Fitzsimmons v. Taylor, Secretary, 55 O. S. 385.

Where several members of a board (school) are to be elected at one election but for different terms of office, the ballots must state to which term the candidate is elected otherwise the ballot will be declared void although the entire election may be invalidated thereby.

State Ex rel. v. Schaffer et al., 18 C. C. 525.

For each separate question to be submitted to a vote of the people, a separate ballot and separate ballot box must be provided, to be presided over by the same judges and clerks of election. L. 10-4-02.

The Statute does not prescribe the form in which such proposition shall be submitted on the separate ballot. The statements, however, should be printed upon the ballot in one column, the affirmative first and the negative following. L. 10-25-06.

Where the board of commissioners of a county, acting under authority of Sec. 2925, proceeds to submit to the voters of the county the question of building any public county building or buildings, or purchases sites therefor by general tax, and has certified such action to the deputy state supervisors of the county, it is the duty of the latter board to prepare and print at public expense separate ballots and distribute the same among the several precincts of the county. At such election such separate ballots must be deposited in a separate ballot-box with separate poll books presided over by the regular judges or clerks of election. A return of the vote on such proposition must be made by the judges and clerks to the deputy state supervisors as other election returns are made. The deputy state supervisors should canvass the vote from the several precincts of the county, declare the result and make out return thereof to the County Commissioners. L. 10-25-06.

BOOTHS, GUARD-RAILS, ETC.

(2966-33.) Sec. 19. The deputy state supervisors shall provide a sufficient number of voting shelves at which electors may conveniently mark their ballots, so that in the marking thereof they shall be protected from the observation of others by cloth screens or other device, extending from the top of the booth to a level with or below the voting shelf, and a guard-rail shall be so constructed and placed that only such persons as are in-

Voting shelves
and guard-
rails, arrange-
ment of.

Arrangement
of ballot-boxes
and voting
booths.

Number of
shelves
required.

Who per-
mitted within
rail.

Supplies for
marking
ballots.

Return of
booths,
guard-rails,
etc.

Placing of
such equip-
ment for
elections.

side said rail can approach within six feet of the ballot-boxes or of such voting shelves. The arrangements shall be such that neither the ballot-boxes nor the voting booths shall be hidden from view of those outside of the said rail. The number of such voting shelves shall not be less than one for every seventy five electors qualified to vote at such polling place. No person other than the judges of election and such officers as are provided for by the statutes of this state or of the United States, and electors admitted as herein provided, shall be permitted within said rail, except by authority of the election officers, for the purpose of keeping order and enforcing the law. Each voting shelf shall be provided with proper supplies and conveniences for marking the ballot. After each election the judges of elections shall see that the booths, guard-rails and other equipments are returned to the clerk or auditor of the township or corporation in which the precinct is situated, for safe keeping, and it shall be the duty of such clerk or auditor to have such booths and equipments on hand and in place at the polling place in each precinct before time for opening the polls on election day, and for this service the deputy state supervisor may allow the necessary expense incurred: provided that in registration cities this duty shall devolve on the board of deputy state supervisors. [97 v. 234.]

CHALLENGERS — OATH.

Appointment
and privileges
of party
challengers.

(2966-34.) Sec. 20. Two challengers may be appointed by the precinct committeeman of each political party having candidates to be voted for at such election, who shall be admitted to the polling place for the purpose of challenging electors in such precincts where the voters are not registered, and they may keep tally of the electors voting; and in all special elections when no candidates are to be elected, the judges of election in each precinct shall at least one day before the election, appoint and make public two known representatives of each side of the question to be submitted, as challengers: the challengers shall serve without compensation from the county, city, village or township, and shall take the following oath, to be administered by one of the judges of election:

Oath of
challengers.

You do solemnly swear (or affirm) that you will support the constitution of the United States and of this state; that you will faithfully and impartially discharge the duties as official challenger, assigned by law; that you will not cause any delay to persons offering to vote further than is necessary to procure satisfactory information of the qualifications of such person as elector, and that you will not disclose or communicate to any person how any elector has voted at such election.

Challenges.

Any voter may be challenged by any challenger, judge or clerk of the election, and, if challenged, shall establish

his right to vote as now provided by law. Any elector of the precinct may notify the judges of election, in writing, that he challenges the right of any person or persons to vote, giving the reason, and such person or persons shall be deemed challenged as above. [97 v. 234.]

The proper time to challenge a voter, is when he offers to vote, and not when he demands a ballot. T. 10-29-96.

Where a ticket or candidate has been nominated by independent nomination papers, such independent candidates have no right under authority of this section to the appointment of separate challengers and inspectors. L. 10-22-04.

A political party entitled under this section to name challengers, is a political party within the meaning of Sec. 2966-18. L. 10-27-05.

BALLOT—HOW PREPARED.

(2966-35.) Sec. 21. Any person desiring to vote and legally entitled to vote at such election shall give his name, and in precincts where the registration law is in force his residence to the election officer holding the ballots, who shall write the same upon the main stub of the ticket in the blank space provided therefor. Such officer shall then mark upon the secondary stub the elector's registered number in all precincts in which a registration law is in force, and all other precincts the elector's full name.

Entry of name, residence and registered number of elector upon stubs of ballot.

One of the election officers shall then detach the ballot, with the secondary stub attached, from the main stub, fold the same, and shall hand it to the elector, and the elector shall be allowed to enter the place inclosed by the guard-rail. The officer shall give him one, and only one ballot.

Delivery of ballot to elector.

On receipt of his ballot, the elector shall forthwith, and without leaving the inclosed space, retire alone to one of the voting shelves, and without undue delay unfold and mark his ballot as hereinafter described. No elector shall be allowed to occupy a voting shelf already occupied by another, or to occupy a voting shelf for more than five minutes, in case all the shelves are in use and electors waiting to occupy the same, or to speak to or converse with any one, except as herein provided while within the guard-rail. All marks upon the ballot must be made by black leadpencil. If an elector soil or deface a ballot so that it cannot be used, he may successively obtain others, one at a time, not exceeding in all three, upon returning each ballot so soiled or defaced, which shall be immediately destroyed; provided, if an elector who has defaced three ballots, shall satisfy the judges that the same were defaced by accident or honest mistake, and not for any fraudulent purpose, the judges shall deliver him another ballot and help him mark the same.

General provisions relating to preparation of ballot.

Rules for marking.

The elector shall observe the following rules in marking his ballot:

For a straight ticket.

1. If the elector desire to vote a straight ticket, or in other words for each and every candidate of one party for whatever office nominated, he shall, either,

(a) Make a cross mark in the circular space below the device and above the name of the party at the head of the ticket; or

(b) Make a cross mark on the left and opposite the name of each and every candidate of such party in the blank space provided therefor.

For a mixed ticket.

2. If the elector desires to vote a mixed ticket, or in other words, for candidates of different parties, he shall, either,

(a) Omit making a cross mark in the circular space above the name of the party, and make a cross mark in the blank space before the name of each candidate for whom he desires to vote on whatever ticket he may be; or,

(b) Make a cross mark in the circular space above the name of a party, some of whose candidates he desires to vote for, and then make a cross mark before the name of any candidate of any other party for whom he may desire to vote; in which case, the cross mark in the circular space above the name of the party will cast the elector's vote for every candidate on the ticket of such party, except for officers for which candidates are marked on other party tickets, and the cross marks before the names of such candidates will cast the elector's vote for them; provided, that where two or more persons for the same office are to be voted for in any precinct, as two or more representatives or other officers, and the names of several candidates therefor appear on each party ticket grouped under the office for which all are running, the elector who has marked a ticket in the circular space at its head, and marked one or more of a group of candidates for such office on another ticket or tickets, must in addition to marking the ticket in the circular space at its head, also make a cross mark before each one of the group of candidates for such office for whom he desires to vote on the ticket thus marked; or instead of marking the candidates for such office he desires to vote for on the ticket marked by him, he may erase the names of candidates for such office whom he does not desire to vote for on the ticket thus marked by him to the number of candidates for such office marked by him on other party tickets, in which case his vote shall be counted for the candidates for such office not erased; and provided, further, if an elector who has thus marked a party ticket in the circular space at the head thereof and marked one or more candidates on another ticket or tickets for an office for which there are more than one candidate on his own party ticket, fail or neglect to indicate either by individual marks or by erasures, as afore-

When two or more persons are to be elected to the same office.

said, which of the several candidates for the same office on his own party ticket he desires to vote for, then and in such event, the vote shall be counted only for the candidate or candidates for that office that have the distinguishing mark before his or their names.

If, in marking either a straight or mixed ticket as above defined, a cross mark is made in the circular space above the name of a party at the head of the ticket, and also one or more cross marks made before the name or names of candidates on the same ticket for offices for which candidates on other party tickets are not individually marked, such marks before the names of candidates on the ticket so marked, shall be treated as surplusage and ignored, and the ballot be counted for all the candidates on the ticket thus marked for offices for which no candidates on other tickets are marked; but this provision is subject to the exception in the proviso in the last paragraph, where two or more persons for the same office are grouped on party tickets.

Surplus
marks.

In the case of a question submitted, the elector shall make a cross mark in the blank space on the left of and before the answer which he desires to give.

Submission of
question.

If the elector desires to vote for any person whose name does not appear on the ticket he can substitute the name by writing it in black lead pencil or black ink in the proper place, and making a cross mark in the blank space at the left of the name so written.

Substitution
of name of
person not on
ticket.

If the elector mark more names than there are persons to be elected to an office, or if, for any reason, it is impossible to determine the voter's choice for an office to be filled, his ballot shall not be counted for such office.

When ballot
not to be
counted for
certain office.

No ballot shall be rejected for any technical error which does not make it impossible to determine the voter's choice. [89 v. 444.]

Disregard of
technicalities.

A voter at a municipal election put a cross-mark on a ticket in the place provided to indicate a straight vote for that ticket; put no other mark on that ticket, but drew a line diagonally across the other ticket printed on the same ballot, there being but two tickets on the ballot, in such a way as to emphasize his intention to vote a straight ticket. *Held*: That his error in drawing such line is technical only, and his intention to vote a straight ticket being clear, the vote should not be rejected, but counted for all the candidates on the ticket on which the cross mark was made. And generally when the voter has indicated his intention to vote a straight ticket by placing a cross-mark in the place provided at the top of the ticket, his vote should not be lost because of additional marks put by him on another ticket merely for the evident purpose of emphasizing such intention.

Stearns v. Taylor et al., 1 N. E. 25.

The provision of the Australian Ballot Law that "all marks upon the ballot must be made with a black lead pencil and the further provision that "no ballot shall be rejected for any technical error which does not make it impossible to determine the voter's choice," does not render invalid a ballot upon which the contestant's name was written with a blue pencil; nor a ballot upon which a black pencil line is drawn through the name of a candi-

date and the name of an opposing candidate written under and partly through it notwithstanding no cross mark appears opposite the latter's name; nor a ballot containing a ticket upon which no names of candidates appear in the printed designations of the several offices, whereon a name is written beneath the line designating the line of the office for which the candidate whose name thus appears is running.

State Ex rel. v. Conser, 5 C. C. (N. S.) 119.

The provisions of the Australian Ballot Law, pertaining to the color of the pencil to be used in marking the ballot, the kind of a mark by which the voter indicates his choice and the place where the mark is to be put upon the ballot, are mandatory and must be substantially complied with before the ballot becomes a legal one and can be counted.

In re. Jones Contest 8 N. P. 395.

Where all the tickets on a ballot except one are marked off with long cross marks extending from the top of the ticket to the bottom, and there is no cross in the circle over the ticket which is not thus erased and no crosses opposite the names of the candidates on that ticket, the ballot should be rejected for failure on the part of the voter to exhibit any intention to comply with the statute in the marking of his ballot.

Williams v. Barker, 17 N. P. 679. (B. Aug. 5, 1907).

A ballot that is properly marked, with the exception of one particular office for which two candidates are voted, is valid, and under Rev. Stat. 2966 *et seq.* (Lan. 4534 *et seq.*) should be counted for all offices except that particular one. — *Ibid.*

A ballot with a straight mark or a circle within one of the circles over the several tickets does not indicate an honest desire on the part of the voter to comply with the statute in designating the ticket he desires to vote, and such a ballot should be rejected; but where the mark in the circle at the head of a ticket shows only such an irregularity as might result from an awkward use of the pencil, the ballot should be counted. — *Ibid.*

Substitution when no nomination made or name of nominee omitted; marking of ballot in such case.

(2066-36.) Sec. 21a. If there should be no nomination for a particular office by any political party, or if, by inadvertence or otherwise, the name of a candidate regularly nominated by such party should be omitted from the ballot, and the elector desires to vote for some one to fill such office, he may do so by writing the name of the person for whom he desires to vote in the space underneath the heading or designation of such office and make a cross mark in the circle at the head of the ticket, in which case the ballot shall be counted for the entire ticket as though the name substituted had been originally printed thereon. [OT v. 119.]

BALLOTS — HOW CAST.

Folding of ballots.

(2066-37.) Sec. 22. Before leaving the voting shelf the elector shall fold his ballot without displaying the marks thereon, and so as to conceal the same, but show the indorsements and fac simile of the signatures of the proper clerk or board and keep the same so folded until he has delivered the ballot to the presiding officer.

Receipt of same.

One of the election officers shall receive the ballot, detach the secondary stub bearing the elector's registered

number or name, and examine such stub for the purpose of identification, and deposit the ballot in the ballot box; the secondary stub shall be preserved until the polls are closed and shall then be destroyed before the ballot box is opened; the elector shall mark and vote his ballot without undue delay, and shall leave said enclosed place as soon as he has voted.

When any person shall have received an official ballot from one of the election officers and shall have delivered the same to the election officer having charge of the ballot box at the time, and when such ballot has been deposited in the ballot box, such person shall be deemed to have voted.

No elector, not an election officer, shall be allowed to re-enter said enclosed place during said election except for the purpose of voting. No more electors shall be allowed to enter within said rail at any one time than there are voting shelves provided. It shall be the duty of the judges of election to secure the observance of the provisions of this section.

Re-entering
booth.

Every elector who does not vote a ballot delivered to him by the ballot officer shall, before leaving the polling place, return such ballot to such officer.

Return of un-
voted ballot.

Any elector who declares to the presiding judge of election that he is unable to mark his ballot by reason of blindness, paralysis, extreme old age or other physical infirmity, and such physical infirmity is apparent to the judges to be sufficient to incapacitate the voter from marking his ballot, properly, may upon request, receive the assistance in the marking thereof of two of the judges of election, belonging to different political parties, and they shall thereafter give no information in regard to the matter. But such assistance shall not be rendered for any other cause which the voter may specify, and the presiding judge may require such declaration of disability to be made by the elector under oath before him.

Assistance in
marking.

No ballot without the official endorsement shall be allowed to be deposited in the ballot box, and none but ballots provided in accordance with the provisions of this act shall be counted. [98 O. L. 225.]

Unofficial
ballots.

The preceding paragraph is the only authority provided by law for assisting an elector to mark his ballot. L. 11-12-06.

Where two voters, one blind and the other infirm through extreme age remained in a carriage outside the polls and marked their ballots in the presence and under the direction of two of the election judges, and such ballots were then deposited by the judges, such irregularity will not invalidate these votes.

In re. Contest South Charleston election, 3 N. P. N. S. 373.

It is not the duty of the judges to instruct a voter how to mark his ballot unless such voter is physically unable to do so, by reason of blindness, paralysis, extreme old age, or other physical

infirmity, and such physical infirmity must appear to the judges to be sufficient to incapacitate the voter from marking his ballot properly. Such assistance shall not be rendered for any other cause except as above stated. L. 11-10-05.

Judges of election are permitted to assist only such persons as are physically unable to mark their ballots, and are not permitted to assist voters who are unable to read the instructions. Such voter must ascertain the manner of marking the ticket before entering the booth from sources outside the judges of election. K. 3-30-97.

Judges of election have no authority to assist an elector in marking his ballot, unless he is physically disabled and such physical disability is apparent to the judges. The fact that an elector can not read or write is not a physical disability. T. 10-29-96.

A ballot is not voted until it is deposited in the ballot box, and hence when a ballot was not deposited in the box because improperly folded, it cannot be counted.

Williams v. Barker, 17 N. P. 679, (B. Aug. 5, 1907).

POLLS CLOSED—UNUSED BALLOTS DESTROYED.

Appointment and privileges of party inspector.

Special elections.

Who admitted to polling place.

Certificate and proclamation of vote cast.

Destruction of unvoted ballots.

(2966-38.) Sec. 23. The county executive committee of each party having a ticket to be voted at an election may designate a suitable person to be present as inspector and witness and inspect the counting of the votes in each precinct, and who shall be admitted to said voting place, and who shall be entitled to a copy of the certificates provided for in this act; and in all special elections where there are no candidates to be elected, the judges of election shall at least one day before the election appoint and make public one known representative of each side of the question to be submitted, as inspector; but no other person except the election officers shall be admitted to said polling place before or after the count begins. Immediately upon the close of the polls, the number of electors entered and shown on the poll-books as having voted, shall be first certified therein and signed by the board of judges and the clerks; and before any other or further proceedings the president or chairman of the board shall make proclamation in a loud voice outside of the polling room, stating the number of voters so shown and certified on the poll-books. Thereupon the judges shall, in the presence of the clerks and inspectors above provided for, destroy the ballots remaining unvoted. [97 v. 235.]

A candidate who is present at the counting of the ballots, and declared himself satisfied with the result is not thereby estopped from contesting the election.

State Ex rel. v. Conser, 5 C. C. (N. S.) 119.

The word "Election officers" as used in Sec. 23 of the ballot act, includes the challengers.

Oliver v. Bode et al. 6 O. D. 57.

A committee of five named in nomination papers to represent an independent candidate, is not authorized to "designate a suitable person to be present as inspector to witness and inspect the counting of the vote in each precinct" within the provisions of this section. L. 10-9-01.

The words "voting place" should be construed to mean the room or apartment in which the judges are during the counting of the ballots. L. 6-6-02.

A political party entitled, under this section to name an inspector, is a political party within the meaning of Sec. 2966-18. L. 10-27-05.

No one other than election officers and inspectors shall be present or witness the count of ballots. L. 10-31-06.

See note to Sec. 2966-24 as to right of independent candidates to appoint challengers.

See note to Sec. 2966-3, as to "Executive Committee."

CANVASS OF VOTES.

(2966-39.) Sec. 24. The ballot-box shall then, without any adjournment or delay be opened, and without opening any ballot or ascertaining its contents, the number of ballots shall first be counted. If the number of ballots exceeds the number of names on the poll-books, the ballots shall be replaced in the box, and one of the judges shall, with his back to the box and without seeing it, draw out, without showing them, and destroy a number of ballots equal to the excess. And, if during the counting of the ballots or at the conclusion of the counting, an excess of ballots be discovered, all the ballots shall be returned to the box, and after being thoroughly mingled the excess shall, in the manner directed above, be drawn out and destroyed, and the count corrected accordingly. In all cases where ballots have thus been drawn out and destroyed, a minute of the number destroyed and the reason, shall be made on the tally-sheet. The ballots shall then be taken out, one at a time, by one of the judges, who shall read aloud distinctly, while the ticket remains in his hands, the name or names voted for thereon, except that a straight ticket may be announced as such and be so counted, and then delivered to the second judge, who shall examine the same and pass it to the third judge, and so on to the fourth, who shall preserve it; and the same method shall be observed in respect to each of the tickets taken out of the ballot-box until all the ballots have been taken out of the ballot-box. The clerks shall enter in separate columns by tallies under or opposite the names of the persons voted for, as provided in the form of tally-sheets, all the votes thus read by the judges. After the examination of the ballots has been completed the number of votes for each person shall be enumerated under the inspection of the judges, and set down as provided in the form of the tally-sheets; when the result of the ballot is ascertained it shall immediately be announced by one of the judges in front of the polling place, and a copy thereof certified by the judges and clerks posted on the front of the polling place, and a certified copy thereof given to the persons hereinafter designated as being entitled to be present at the counting of the votes. When all these requirements are complied with the judges shall, in the presence of the clerks and the inspectors,

Opening of
ballot-box,
counting of
ballots.

Excess of
ballots to be
destroyed.

Minute of de-
stroyed bal-
lots.

Completion of
count.

Proclamation
of result.

Destruction
of ballots
counted.

Preservation
of disputed
ballots.

destroy by burning the ballots so read and counted, provided, however, if there are any ballots cast and counted or left uncounted concerning the legality of which there is any doubt or difference of opinion in the minds of the judges of election, said ballots shall not be destroyed, but sealed up and returned to the deputy state supervisors with the returns of the election for such judicial or other investigation as may be necessary, with a true statement as to whether they have or have not been counted, and if counted, what part and for whom. [97 v. 235.]

The last part of this section was intended for evidence in a proper contest, but confers no authority on the deputy supervisors to enter upon the investigation.

State v. Tanzey, 49 O. S. 656-651.

The deputy supervisors have no authority to open the envelopes containing the disputed ballots which are required to be filed in their office by the judges and clerks of election. They are simply the custodians, and the ballots are placed in their hands for safekeeping, and can be opened only in case of a contest or other judicial investigation. T. 11-8-93.

The question of qualification of a voter must be decided by the judges of election, at the time he presents himself to vote, and their decision must be governed by the instructions prepared and furnished by the Secretary of State under Sec. 2966-14 R. S. L. 11-5-06.

A mutilated ballot should be rejected, for the reason that it would afford a sure means of identifying the ballot, and there is a provision for supplying a voter with a second ballot if the first is spoiled in the marking.

Williams v. Barker, 17 N. P. 679, (B. Aug. 5, 1907).

Making
transmission
and preservation
of re-
turns, tally-
sheets and
poll books.

(2966-40.) Sec. 25. After canvassing the votes, in addition to the requirements of section 8 of the supervisory election law, the judges and clerks in each precinct shall make out the returns of the election in duplicate, sign and certify one of the poll-books and tally-sheets thereof, and immediately transmit the same to the deputy state supervisors by the presiding judge or such other judge as he may designate; the other poll-book and tally-sheet signed and certified in like manner, shall be forthwith deposited with the clerk of the township or the clerk or auditor of the municipal corporation, as the case may require, by another judge designated by the presiding judge, to be preserved one year after the date of such election. Such returns shall be securely sealed up in an envelope and addressed transversely upon the upper end thereof to the proper officer with whom they are to be deposited, with the designation of the township, precinct and country; provided, that in registration cities such delivery shall be made as now provided by law. From the time the ballot-box is opened and the count of votes begun, until the votes are counted and the returns made out, signed and certified as required by law, and delivered to the judges selected for such duty for transmission, the judges and clerks of the precincts shall not separate,

Registration
cities.

Period during
which judges
and clerks
shall not sep-
arate or leave
polling place
under penalty.

nor any judge or clerk leave the polling place except from unavoidable necessity, under penalty of a fine of not less than fifty nor more than one hundred dollars. [97 v. 236.]

PRINTING FALSE BALLOT.

(2966-41.) Sec. 26. Any printer employed to print the official ballots, or any person engaged in printing the same, who shall print or cause or permit to be printed, any official ballots printed otherwise than according to the copy for the same furnished him by the said clerk or board of elections, or any false or fraudulent ballots, or who appropriates to himself or gives or delivers or knowingly permits to be taken any of said ballots by any other person than the said clerk or board, or who knowingly and wilfully seals up or causes or permits to be sealed up or delivers to the said clerk or board, a less number of ballots than the number indorsed thereon; and any person who shall knowingly have in his possession any official ballot illegally obtained, or shall knowingly attempt to vote any other than an official ballot lawfully obtained, shall be deemed guilty of a misdemeanor, and be fined not less than two hundred and fifty nor more than one thousand dollars, or be imprisoned not less than thirty days nor more than six months or both. [89 v. 449.]

Penalty for offenses pertaining to printing or use of ballots.

(2966-42.) Sec. 27. Any judge or clerk of election, or printer or other person entrusted with the custody or delivery of ballots, blanks, poll-books, cards of instruction or other required papers, who shall unlawfully open or permit to be opened, any sealed package containing ballots, or who shall give or deliver to any person not lawfully entitled thereto, or shall unlawfully misplace or carry away or shall negligently lose, or permit to be taken from him, or fail to deliver, or shall, except as in this act provided, destroy any such package of ballots, or any ballot, blank, poll-book, card of instruction, or other required paper, shall be fined not less than one hundred dollars, nor more than one thousand dollars, or imprisoned in jail more than one year, or both. [89 v. 449.]

Penalty for offenses pertaining to custody or delivery of ballots, blanks, poll-books, cards of instruction, etc.

DESTROYING, DEFACING BALLOTS, ETC.

(2966-43.) Sec. 28. Any person who shall falsely make or wilfully deface or destroy any certificate of nomination, or nomination papers, or any part thereof, or any letter of withdrawal, or sign any such certificate or paper contrary to the provisions of this act, or file any certificate of nomination, or nomination paper or letter of withdrawal, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination or nomination paper, or any part thereof, which has been duly filed, or forge or falsely make the official endorsement on any ballot; or shall wilfully deface, tear down, remove or destroy any card of instructions or specimen ballot printed and posted

Penalty for offenses pertaining to certificates of nomination, nomination papers, letters of withdrawal, ballots, cards of instruction, supplies for marking ballots, delaying voters, etc.

for the instruction of voters, or during an election wilfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his ballot, or shall wilfully destroy or deface any ballot, or shall take or remove or be found in the possession of any ballot outside of the inclosure provided for voting before the close of the polls, or shall wilfully hinder or delay the delivery of any ballots, or shall wilfully hinder or delay the voting of others, shall be punished by a fine of not less than one hundred dollars and not more than one thousand dollars, or imprisoned in jail not more than one year, or by both fine and imprisonment. [89 v. 449.]

MISLEADING VOTER — PENALTY.

Penalty for misleading voter, or disclosing how he voted.

(2966-44.) Sec. 29. Any judge or clerk who shall mislead an illiterate voter or a voter who is blind or for any reason unable to prepare his ballot, or who shall prepare a ballot for such voter otherwise than is directed by him, or who shall disclose to any person, except when legally required to do so, how such voter directed his ballot to be prepared, or how he voted, shall be fined not less than one hundred nor more than one thousand dollars, and imprisoned in jail not less than three nor more than twelve months. [89 v. 450.]

PENALTY — EXPOSING BALLOT, DECEIVING ELECTOR, ETC.

Penalty for offenses pertaining to marking of ballots, voting, etc.

(2966-45.) Sec. 30. Any elector who shall, except as otherwise herein provided, allow his ballot to be seen by any person, with an apparent intention of letting it be known how he is about to vote, or shall purposely mark his ballot so it may be identified after it has been cast, or who shall make a false statement as to his inability to mark his ballot, or any election officer who shall deceive any elector in marking his ballot, or mark the same in any way other than as requested by such elector, under the provisions of this act, or any person who shall interfere, or attempt to interfere, with any elector when inside said enclosed place, or when marking his ballot, or shall attempt to speak or converse with any person while within the guard-rail, except as herein provided, or who shall endeavor to induce any elector, after voting, to show how he has marked his ballot, shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the jail not more than six months, or by both such fine and imprisonment. [89 v. 450.]

PENALTY FOR NEGLIGENCE OF DUTY.

(2966-46.) Sec. 31. Any public officer upon whom a duty is imposed by this act who shall wilfully or negligently violate his said duty; or who shall wilfully neglect to perform such duty, or who shall wilfully perform it in such a way as to hinder the objects of this act, or who shall wilfully disobey any provisions of this act, shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment in jail not more than one year, or by both such fine and imprisonment. [89 v. 450.]

Penalty for violation, neglect, or wrong performance of duty, or disobedience, by public officer.

(2966-47.) Sec. 31a. It shall be the duty of the prosecuting attorney of any county, upon the request of the state supervisor of elections, or at the instance of the deputy state supervisors of the county, to prosecute violations of this act. [91 v. 119.]

Prosecution of violations.

GIVING BRIBE.

(2966-48.) Sec. 32. Whoever, directly or indirectly, by himself, or through any other person, either,

Penalty for giving bribe.

1. Gives or lends, or offers or promises to give or lend, or to procure or endeavor to procure, any money or other valuable consideration, to or for any elector, or to or for any other person, to induce any elector to register or refrain from registering for any reason, or to vote or refrain from voting at any election, or to vote or refrain from voting at such election for any particular person or persons, or questions or propositions, or on account of any such elector having registered or refrained from registering, or voted or refrained from voting, or voted or refrained from voting for any particular person or persons, or question or proposition; or,

2. Gives, offers or procures or promises to procure or endeavors to procure, any office, place or employment, to or for any elector or to or for any other person, in order to induce any elector to register, or refrain from registering, for any election, or to vote or refrain from voting at any election, or to vote or refrain from voting at such election for any particular person or persons, or questions or proposition; or,

3. Advances or pays, or causes to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same or any part thereof shall be used in bribery at any election, shall be fined not more than five hundred dollars, or imprisoned in the penitentiary not more than three years, or both. [89 v. 451.]

RECEIVING BRIBE.

Penalty for
receiving
bribe.

(2966-49.) Sec. 33. Whoever, being an elector, directly or indirectly, by himself or through any other person, receives, agrees or contracts for, before, during or after an election, any money, gift, loan or other valuable consideration, office, place or employment, for himself or any other person, for registering or agreeing to register, or for refraining or agreeing to refrain from registering for any election, or for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting for any particular person or persons, or proposition or question, at any election, shall be fined not more than five hundred dollars or imprisoned not more than one year, or both. [89 v. 451.]

INTIMIDATING VOTER.

Penalty for
intimidating
voter, or im-
peding free
exercise of
elective fran-
chise.

(2966-50.) Sec. 34. Whoever, directly or indirectly, by himself or through any other person, makes use of, or threatens to make use of, any force, violence or restraint, or inflicts, or threatens to inflict, any injury, damage, harm or loss, or threatens to enforce the payment of a debt against, or to begin a criminal prosecution against or to injure the business or trade of, or in any manner practices intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or to vote or refrain from voting for any particular candidate or candidates; or if any employer of laborers, or an agent of such employer, whether a corporation or otherwise, does any of the acts aforesaid, or threatens to withhold or reduce the wages of, or to dismiss from service any employe, in order to induce or to compel such employe to vote or refrain from voting for any particular candidate or candidates at any election; and whoever by any sort of duress, constraint or improper influence, or by any fraudulent or improper device or contrivance, impedes or prevents, or otherwise interferes with the free exercise of the elective franchise of any elector, shall be fined not more than two thousand dollars or imprisoned in the penitentiary not more than three years, or both. [89 v. 452.]

Voter may ab-
sent himself
from employ-
ment to enable
him to vote.

(2966-50a.) Sec. 34a. Any person entitled to vote at a general election in this state shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed for a period of two hours between the time of opening and closing the polls; and such voter shall not because of so absenting himself be liable to any penalty; provided, however, that application for leave of absence shall be made prior to the day of the election; the employer may specify the hours during which said employe may absent himself

as aforesaid. Any person or corporation who shall refuse to an employe the privilege hereby conferred, or shall subject the employe to a penalty because of the exercise of such privilege, or who shall, directly or indirectly violate the provisions of this section, shall be deemed guilty of a misdemeanor and be fined in any sum not less than five (\$5.00) dollars nor more than one hundred (\$100.00) dollars. [94 v. 232.]

Penalty for refusing employe privilege to vote or subjecting him to penalty.

OFFENDER COMPELLED TO TESTIFY.

(2966-51.) Sec. 35. Prosecutions under all the penal sections of this act and of the Revised Statutes pertaining to the conduct of elections, must be commenced within two years after the commission of the act complained of. A person offending against any provision of sections 32, 33 and 34, of this act is a competent witness against another person so offending, and may be compelled to attend and testify upon any trial, hearing or investigation, in the same manner as any other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying. A person so testifying shall not be liable thereafter to indictment, prosecution or punishment, for the offense with reference to which his testimony may be given, and may plead or prove the giving of testimony accordingly, in bar of such indictment or prosecution. When a person is convicted of any offense described in section 32 of this act, he shall, in addition to the punishment therein prescribed, forfeit any office to which he may have been elected at the election with reference to which such offense was committed, and when a person is convicted of any offense mentioned in section 33 of this act, he shall, in addition to the punishment therein prescribed, be excluded from the rights of suffrage for a period of five years after such conviction. [98 O. L. 227.]

See Brown v. Walker, 161 U. S. 591

Legislation as to prosecutions under penal sections.

Competent witnesses in prosecution for bribery intimidation, or impeding or preventing free exercise of elective franchise.

Forfeiture of office for giving bribe.

Disfranchisement for receiving bribe.

LEGAL HOLIDAY.

Section 6. The first Tuesday after the first Monday in November of each year, from and between the hours of five-thirty o'clock a. m. and nine o'clock a. m., shall be, for election purposes only, a legal part holiday. And no person who is an elector shall be compelled or required to perform any labor between said hours, nor shall any employer or his or its officers or agents discharge any such person because he fails or refuses to labor between said hours, or require or order such employe to accompany him to the voting place of such employe; and any person violating any of the provisions of this act, shall, upon conviction be fined not more than twenty-five dollars. [97 v. 238.]

Legal holiday.

ABSTRACTS AND RETURNS.

Opening re-
turns and
making ab-
stracts of
votes.

Sec. 2980. In not less than one nor more than five days after the election, or sooner, in case the returns are made, the deputy state supervisors shall proceed to open the several returns made to them and make abstracts of the votes in the following manner, viz.:

1. Upon a single sheet, an abstract of votes for governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state and attorney-general.

2. Upon another sheet, an abstract of votes for governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, state commissioner of common schools, member of the board of public works, judge of the supreme court, clerk of the supreme court, dairy and food commissioner and representatives to congress.

3. And upon another sheet, an abstract of votes for governor, lieutenant-governor, secretary of state, treasurer of state, attorney-general, state commissioner of common schools, member of the board of public works, judge of the supreme court, clerk of the supreme court, dairy and food commissioner, judge of the circuit court, judge of the common pleas court, representatives to congress, senators and representatives to the general assembly, judge of the probate court, clerk of the common pleas court, sheriff, county auditor, county commissioner, county treasurer, county recorder, county surveyor, prosecuting attorney, infirmary director and coroner. [90 v. 279.]

As to powers of an election board after canvass has been completed, see *State Ex rel. v. Donnewirth*, 21 O. S. 216.

Under the thirty-fourth section of the election law, (S. and C. 536) where the poll-books upon their face are substantially correct, the justices and clerk, in making an abstract of votes, are not authorized to reject such poll-books on account of fraud in the election.

Phelps v. Schroder, 26 O. S. 549.

In an election contest on an appeal in the court of common pleas questions of law arising upon evidence brought on the record by a bill of exceptions, are subject to review on error without a motion for a new trial having been made and overruled.

Phelps v. Schroder, 26 O. S. 549.

In an action to enjoin the clerk of the court of common pleas of Wood County from recording the abstract of the vote in said county upon the question of the removal of the county seat, held that allegations of fraud and illegality in conducting the election, constitute no sufficient ground for such injunction. Wrongs of such a nature can be inquired into and redressed, only by means of a contest of the election, pursuant to the provisions of the act of April 15, 1857.

Peck v. Weddell, 17 O. S. 271.

The board is without authority to hear evidence to contradict or explain the tally-sheets or act upon information not appear-

ing on their face or to open or count ballots returned by the precinct officer as uncounted ballots, concerning the legality of which, doubt or difference of opinion existed in the minds of the judges of the election.

State Ex rel. v. Tanzey et al., 49 O. S. 656.

The duties of the board of deputy supervisors of elections in making the abstracts of the votes returned by the officers of the election precincts of the county, are purely ministerial, and are limited to compiling the votes shown by the tally-sheet so returned, and set down to each candidate the aggregate number of votes so appearing to have been actually for him and to certifying and transmitting the abstract so made, to the proper officer.

State Ex rel. v. Tanzey et al., 49 O. S. 656.

An action in mandamus to compel the board to make, certify, and transmit the proper officers as required by law, the several abstracts of the votes shown by the tally-sheets returned from the various election precincts of the county, may be instituted on the relation of any elector of the county.

State Ex rel. v. Tanzey et al., 49 O. S. 656.

In an action to contest an election where the election officers are *functus officio*, the fact that none of the ballots in dispute were counted by the election officers may be established by parol evidence.

Williams v. Barker, 17 N. P. 679, (B. Aug. 5, 1907).

In a contested election case, where the term of office has begun before the case is brought to trial, a finding in favor of the contestant should be accompanied by a judgment of ouster and of induction of the contestant into office. — *Ibid.*

(2981-1.) That whenever any judge of any court of this state, representative of the general assembly, or other district or county officer, is to be elected at any April or special election, the judges of such election shall make return of the poll-books of such election to the deputy state supervisors of their respective counties, and they shall, on the sixth day or sooner in case the returns are all made, proceed to open such returns and make an abstract of the votes cast for such officers, and make and deliver to the person or persons elected certificates of their election. Provided, however, if such officer is to be elected by two or more counties joined in the same circuit or district, then the deputy state supervisors of the county or counties comprising such circuit or district, excepting the chief deputy state supervisor of the county in such circuit or district having the largest population, shall, within eight days after such election, transmit by mail to the deputy state supervisors of the county in such circuit or district having the largest population an abstract showing the number of votes given in each precinct in their respective counties for each person who received votes for any office to be filled by such circuit or district: such abstract shall be attested by the chief deputy state supervisor and clerk of the board, and inclosed in an envelope, so indorsed as to show distinctly that it is an abstract of votes, for what office or offices, and from what county the same was transmitted; and such abstract shall be canvassed by the deputy state supervisors to whom transmitted, who shall incorporate the

Returns, abstracts and certificates of certain officers elected at special elections.

When two or more counties joined in same circuit or district.

same in an abstract with returns from the precincts of their county for such office or offices, and make and transmit to the person or persons elected certificates of their election. [90 v. 281.]

See Dalton v. State Ex rel. Richardson, 43 O. S. 652.

Provisions relating to poll-books, abstracts and validity of returns.

Sec. 2982. The deputy state supervisors shall not receive any paper as a poll-book of any precinct unless it be delivered to them by one of the judges of the election held in such precinct; and, in making the abstract of votes, they shall not decide on the validity of the returns, but shall be governed by the number of votes stated in the returns; and they shall certify and sign the abstracts and deposit the same in the office of the deputy state supervisors. [90 v. 279.]

The clerk of the court of common pleas and justices called to his assistance to abstract the votes of an election, cannot be required by mandamus to abstract votes cast for a person or persons for an office, unless the same is required to be filled by the electors at such election.

State Ex rel. v. Crawford v. McGregor, 44 O. S. 628.

In certifying the election of an officer the power of the deputy state supervisor of elections is limited to certifying that the successful candidate has been elected and they have no power to decide upon a disputed term of office.

State Ex rel. Pardee v. Pattison, Governor et al., 73 O. S. 305.

Making and transmission of certain copies of abstracts.

Sec. 2983. The deputy state supervisor shall make and certify duplicate copies of abstract number one, and inclose and seal the same, and indorse on the envelope "Certificate of the votes for governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state and attorney-general" (either or all as the case may be), and the name of the county in which the votes were given; and shall direct and forward one copy thereof by mail to the president of the senate, at Columbus, and shall deliver the other copy to a member of the general assembly, who shall deliver the same to the president of the senate at Columbus; and shall also forthwith make, certify, seal and indorse, in manner aforesaid, a copy of abstracts numbers two and three, and transmit the same by mail to the secretary of state at Columbus. [90 v. 280.]

When president of the senate transmits and publishes abstracts.

Sec. 2984. The president of the senate shall, during the first week of the session of the general assembly, open and publish the abstracts of votes by him received, in conformity to the third section of the third article of the constitution of the state; but if the abstract from any county has not been received by him, recourse shall be had to abstract number two or three, in the office of the secretary of state. [50 v. 311, § 21.]

Sec. 2985. If the general assembly of the state should not be in session in January, previous to the second Monday thereof, next after an election for all or any of the executive officers of the state, the governor and secretary of state shall, within five days thereafter, in the office of the secretary of state, in the presence of at least two of the judges of the supreme court, open the returns of abstract number two, made to the secretary of state, for said offices; and if such returns have not been received from all the counties, recourse shall be had, for such delinquent counties, to the returns of the abstract number three; and they shall forthwith proceed to ascertain the number of votes given for the different persons, for the several offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state and attorney-general, as the case may be; and the person having the highest number of votes for any of said offices shall be considered duly elected, and shall be so declared by the governor; but if it appear, from the returns of abstracts aforesaid, that two or more persons have the highest and an equal number of votes for any of said offices, the governor shall communicate such fact to the general assembly, by message, at its first session thereafter. [82 v. 52.]

If general assembly not in session who to open and canvass certain returns of election, and how.

Sec. 2986. Within ten days after the first day of December next after such election, the governor and secretary of state shall, in the office of the secretary of state, in the presence of the auditor of the state and attorney-general open the returns of abstract number two, made to the secretary of state, for state commissioner of common schools, member of the board of public works, judge of the supreme court, clerk of the supreme court, and representatives to congress for each congressional district; and if it appear that returns have been received from all the counties, agreeably to the provisions of this chapter, the governor and secretary of state shall forthwith proceed to ascertain the number of votes given for the different persons for such offices. [50 v. 311, § 24.]

When governor and secretary of state to canvass certain returns.

Where the governor and secretary of state, under Section 2986 of the Revised Statutes, in canvassing the returns of votes from a congressional district, aggregate the votes returned from one county for H. L. Morey with the votes returned from the other counties for Henry L. Morey, treating the names as designating the same person, a mandamus will not be awarded requiring the votes thus aggregated to be counted as given for different persons in the absence of an averment that the votes were intended for different persons.

State Ex rel. v. Foster. 38 O. S. 599.

Sec. 2987. If such returns have not been received from all the counties, and returns of abstract number three have been received by the secretary of state from the delinquent counties, agreeably to the provisions of this chapter, the governor and secretary of state shall be governed,

When other returns may be used in the canvass.

so far as relates to such delinquent counties, by the last mentioned abstracts; and the persons having the highest number of votes for the respective offices named in section twenty-nine hundred and eighty-six shall be considered duly elected; and the secretary of state may open the returns of abstract number three as they are severally received by him. [50 v. 311, § 25.]

Vacancy in office of representative to congress and members of general assembly—how filled.

Sec. 2988. Whenever a vacancy happens in the office of representative to congress, or senator or representative to the general assembly, the governor shall, upon satisfactory information thereof, issue a writ of election, directing that a special election be held to fill such vacancy, in the territory entitled to fill the same, on a day which shall be specified in the writ; such writ shall be directed to the sheriff or sheriffs within such territory, who shall give notice of the time and places of holding such election, as in other cases; and such election shall be held and conducted, and returns thereof made, as in case of a regular election. [50 v. 311, § 28.]

Making, filing and transmission of certified copies of abstracts in election to fill vacancy in office of member of congress.

Section 2989. In any election for member of congress, to fill a vacancy, the deputy state supervisors of each county embraced in the district in which the election is held shall, within six days after the election, make, and certify an abstract, in duplicate, of the votes cast at such election in their county. Such deputy state supervisors shall file one copy of the abstract in their office and shall inclose the other in an envelope, so indorsed as to show distinctly that it is an abstract of votes, for what office and from what county, and transmit it, without delay, to the secretary of state; if the secretary of state fails to receive the abstract from any county within twelve days after such election, he shall forthwith notify the deputy state supervisors of such county thereof; and they shall, on receipt of the notice, forthwith make and transmit to the secretary of state a certified copy of the duplicate on file in their office. [90 v. 280.]

Votes to be canvassed by secretary of state.

Sec. 2990. The secretary of state shall, on the twenty-first day after the holding of such special election, or sooner, if all the returns have been received, in the presence of the governor, or, in his absence, in the presence of the auditor and treasurer of state, (who are required to attend forthwith at the office of the secretary of state, on notice given by the secretary), open the abstracts, and canvass the votes; and the person having the greatest number of votes shall be declared duly elected, and the governor shall forthwith transmit to him by mail a certificate of his election. [50 v. 311, § 30; S. & C.. 538.]

Tie votes for congressmen to be decided by lot.

Sec. 2991. If it appears from the returns of abstracts that two or more persons, in any congressional district, have the highest and an equal number of votes for representative to congress, the governor and secretary of state

shall decide by lot which of said persons is duly elected; and the governor shall transmit to each person so elected a certificate of his election, which certificate shall be signed by the governor, sealed with the great seal of the state, and countersigned by the secretary of state. [50 v. 311, § 26; S. & C. 537.]

Sec. 2992. In cases where the returns of abstracts from all the counties composing a congressional district are not made within the time required by law, and in cases where any of them are made after the certificate of election has been forwarded to the person who, according to the abstracts received, has the highest number of votes, the secretary of state shall, in the presence of the governor, or, if he is absent, in the presence of the auditor and treasurer of state, when such abstract shall have been received, open the same, and the governor shall certify them to the speaker of the house of representatives of the United States. [50 v. 311, § 50; S. & C. 542.]

When abstracts to be recanvassed, and other certificates issued.

Sec. 2994. When two or more counties are joined in a judicial district, or in a judicial, senatorial or representative district, the deputy state supervisors of each county of such circuit or district having a population not the largest shall make and, within eight days after the day of election, transmit by mail to the deputy state supervisors of the county in the circuit or district having the largest population an abstract showing the number of votes given in each election precinct in such county for each person who received votes for any office to be filled by the circuit or district; such abstract shall be attested by the deputy state supervisors and enclosed in an envelope so indorsed as to show distinctly that it is an abstract of votes, for what offices, and from what county; and it shall be opened and canvassed, as provided in section 2980, by the deputy state supervisors to whom transmitted, who shall incorporate the same in an abstract with the returns from the precincts of their county for such offices, and shall make and transmit to the persons elected certificates of their election. [90 v. 280.]

Making and transmission of certified copies of abstracts and certificates of election in circuits and districts.

CONSTITUTIONAL AMENDMENTS AND OTHER QUESTIONS.

AN ACT.

To regulate voting in cases where statute provides for a vote being taken on any question, but is silent as to number of votes necessary to authorize the act voted upon.

Number of votes necessary to authorize performance of act when statute providing for submission of question is silent.

(2996-1.) That in any and all cases where it is provided by statute that any question shall be submitted to the qualified voters of any township, village, county or city in the state of Ohio, and the statute so providing is silent as to the number of votes necessary to authorize the performing of the act voted upon, such statute shall be held to mean that a majority of all the qualified voters voting at said election must vote in favor thereof in order to authorize the same. [90 v. 130.]

As to definition of term "majority" as applied to special elections. State Ex rel. v. Amlin, 13 O. D. 334.

As to method of counting votes upon the question of construction, reconstruction, enlargement or repair of bridges, see Walbridge v. Jones, 22 C. C. 682.

As to majority of votes requisite at an election, and otherwise the trustees of a township to levy a special tax, see Enyart et al. v. Trustees, 25 O. S. 618.

Submission of question when special election not provided for.

(2996-2.) Unless the act so providing for the submitting of any question to the qualified voters of any township, county, village or city also provides for the calling of a special election for that purpose, no special election shall be so called, and the question so to be voted upon shall be submitted at a regular election in such township, county, village or city, and notice that such question is to be voted upon shall be embodied in the proclamation for such election. [90 v. 130.]

Where a question is submitted to the voters of a township or other sub-division, such as the question of the issue of a tax levy, such question should be printed upon a separate ballot and deposited in a separate ballot box presided over by the regular judges and clerks of election. L. 10-9-05.

Where an act providing for the submission of the question of issuing bonds for a county soldiers' and sailors' memorial to a vote of the electors of the county, makes no provision for a special election, and no provision as to the manner of submitting such question, but merely directs that it be submitted to the "popular vote at the next regular county election," the submission of such question at the next general state and county election is not a separate election, but is the submission of a question at the general election as provided by Secs. 2996-2 and 2966-32 Rev. Stat., and the deputy state supervisors of elections are not entitled to any additional compensation for so submitting such question.

State Ex rel. v. Jones, 14 O. D. 109.

CONSTITUTIONAL AMENDMENTS.

(2976-1.) Sec. 1. That whenever the approval of any constitutional amendment is to be submitted to a vote of the people, any state convention of a political party, which at the last preceding general election polled at least one per cent. of the entire vote cast in the state, may take action in favor of, or against the adoption of such constitutional amendment to be submitted at the next succeeding annual election, and shall certify such action to the secretary of state in the manner provided for certifying nominations for state officers, whereupon said action upon such constitutional amendment shall be printed upon the regular ballot at said election as a part of the party ticket of said party in the manner hereinafter provided.

Constitutional amendment; state convention of political party may take action in favor or against adoption of.

Certification of action to secretary of state, and printing upon ballot.

The act of the General Assembly entitled "An act to provide for the manner of submission of constitutional amendments and other questions to a vote of the people," passed May 2, 1902, (95 O. L. 352), is a valid act.

State Ex rel. Sheets, Attorney General, v. Laylin, Secretary of State, 69 O. S. 1.

(2976-2.) Sec. 2. Such constitutional amendment or amendments shall be stated in words sufficient to clearly designate the same, and such statement or statements shall be printed in a separate column on the regular ballot. On the line below such statement shall be printed the word "Yes," and on the next line below shall be printed the word "No"; provided that said statement shall also be placed on the official ballot immediately below the names of the candidates for state offices on the regular ticket of any party or parties certifying action thereon as provided in section 1 of this act, being followed by the word "yes" or the word "no" accordingly as affirmative or negative action shall have been certified thereon by said party or parties, and said statement of said amendment or question, with the action taken thereon by said party, shall thereupon become a part of said party ticket.

Manner of printing on ballot.

(2976-3.) Sec. 3. The elector shall observe the following rules in [marking] making his ballot.

How ballot to be marked.

1. He may make a cross in the blank space to the left of and before the answer he desires to give to the submission of any constitutional amendment, in the separate column devoted to said amendment, or he may make a cross mark in the blank space to the left of and before the statement, and answer thereto, of any constitutional amendment, as the same may be printed and certified on the ticket of any political party; whereupon, such mark shall cast his ballot for the answer opposite which it is made.

2. The voter may make a cross mark in the blank circular space at the head of any ticket upon which is printed the statement of any constitutional amendment or

question, and the certified answer thereto, which mark shall cast his ballot for the certified answer to the submission of each and every constitutional amendment so printed on said ticket, unless he shall have specifically answered any of said constitutional amendments otherwise elsewhere on the ballot in the manner heretofore stated.

Application of
other laws.

(2976-4.) SEC. 4. Save as otherwise provided herein, all of the provisions of title 15, chapter 2, of the Revised Statutes of Ohio, and all acts amendatory and supplementary thereto, shall apply to the election herein provided for, and all the provisions of said law, or laws, relating to the marking and counting of ballots for candidates, not inconsistent herewith, shall apply to the marking and counting of votes upon any constitutional amendment in any election held under the provisions of this act. [95 v. 352.]

Return of vote
cast for or
against con-
stitutional
amendment.

Section 1. That at the general election to be held on the first Tuesday after the first Monday in November, 1905, the judges and clerks of election in each township, ward and precinct shall, in addition to the returns provided by law, at the same time make return of the vote cast for and against any proposed amendments that may be submitted to the voters of the state for adoption or rejection at such election.

Return by
deputy state
supervisors
of election to
state super-
visor of elec-
tions.

Section 2. A return, additional to the return now required by law to be made of the votes cast at such election for state officers and senators and representatives, and also for and against said proposed amendment or amendments to the constitution, shall be certified and made by the deputy supervisors of election of each county to the state supervisor of elections, within ten days after said election; and within twenty days after said election the governor, secretary of state and attorney-general shall open said returns, and count the votes, and ascertain whether or not a majority of the votes cast at said election have been cast for said proposed amendment or amendments, or either of them; and if it appears that a majority of the votes cast at said election have been cast for said proposed amendment or amendments, or either of them, the governor shall make proclamation thereof without delay.

Canvass of
vote.

Publication of
proposed
amendments
to constitu-
tion.

Section 3. The state supervisor of public printing shall cause the amendments to the constitution proposed at the present session of the general assembly to be published once each week in not less than one newspaper of general circulation in each county of the state wherein a newspaper is published, once each week for six months, and until the first Tuesday after the first Monday of November, 1905, and in counties where newspapers of general circulation represent each of the two leading political parties, then such amendments shall be published in one newspaper of each political party once each week for six months, and until said first Tuesday after the first Monday of Novem-

ber, 1905; and in counties having a German newspaper of general circulation, once a week in a German newspaper for said time; and in counties having two German newspapers of opposite politics, of general circulation in the county, it shall be published in each of such German newspapers.

Section 4. The charges for publication shall not exceed sixty per cent. of the rates established in section four thousand three hundred and sixty-six (4,366) of the Revised Statutes for legal advertising. The cost of publication shall be paid out of the state treasury from any money not otherwise appropriated, upon the warrant of the auditor of state, upon vouchers approved by the supervisor of public printing who shall make legal measurement of the matter published. [97 v. 484.]

Charges for publication.

An amendment to the constitution, submitted by the legislature under the provisions of Sec. 1, Article 16, of that instrument, requires, for its adoption, a majority of all the votes cast at the election for senators and representatives at which it is submitted to the electors of the state for their approval or rejection.

State Ex rel. v. Foraker, Governor, 46 O. S. 677.

FRAUDULENT BALLOTS.

Sec. 2952. When a ballot, with certain designated heading, contains, printed thereon in place of another, a name not found on the regular ballot having such heading, such name shall be regarded by the judges as having been placed thereon for the purpose of fraud, and the ballot shall not be counted for the name so found. [71 v. 31, § 2.]

When a name printed on a ticket fraudulent.

See Roller v. Tuesdale, 26 O. S. 586.

Sec. 2953. When two or more ballots are found folded or rolled together, it shall be conclusive evidence of their being fraudulent, and neither shall be counted. [50 v. 311, § 14.]

When two or more ballots are folded together.

Sec. 2954. If a ballot contains a greater number of names, for any one office, than the number of persons required to fill that office, it shall be considered fraudulent as to the whole of the names designated to fill such office, but no further. [50 v. 311, § 15.]

When a ballot contains too many names.

Sec. 2955. A ballot shall not be considered fraudulent for containing a less number of names than are authorized to be inserted. [50 v. 311, § 16.]

Ballots may contain less names than authorized.

INDICTMENT.

Sec. 7225. When an offense is committed in relation to any election, an indictment for such offense shall be deemed sufficient if it allege that such election was authorized by law, without stating the names of the officers holding the election, or the persons voted for, or the offices to be filled, at such election. [66 v. 302, § 98.]

How election to be averred.

Counts for
bribery, etc.,
at elections
may be joined.

Sec. 7226. Counts under sections seven thousand and forty-four, seven thousand and sixty-four, seven thousand and sixty-five, and seven thousand and sixty-six, may be joined in the same indictment against the same defendant, for acts committed with reference to the same election; and evidence offered on any one count shall be competent evidence to prove the intent charged in any other count of the indictment. [76 v. 75, § 6.]

CRIMES AND OFFENSES.

Convict in-
competent to
be an elector,
or juror, un-
less pardoned
or restored to
citizenship.

Sec. 6797. A person convicted of felony shall, unless his sentence be reversed or annulled, be incompetent to be an elector or juror, or to hold any office of honor, trust or profit in this state; the pardon of a convict shall effect a restoration of the rights and privileges so forfeited, or they may be restored as provided in section seven thousand four hundred and thirty-two; but a pardon shall not release a convict from the costs of his conviction, unless so stated therein. [78 v. 90.]

Convict of
other state
disfranchised.

Sec. 6798. A person who has been actually imprisoned in the penitentiary of any other state of the United States, under sentence for the commission of any crime punishable by the laws of this state by imprisonment in the penitentiary, is incompetent to be an elector or juror, or to hold any office of honor, trust, or profit, within this state, unless he shall have received a general pardon from the governor of the state in which he may have been imprisoned, agreeably to the laws thereof. [40 v. 30, § 1; 73 v. 127, § 33.]

A paroled prisoner is not entitled to the rights of citizenship or the exercise of the elective franchise. K. 10-24-98.

Betting on
election; how
punished.

Sec. 6939. Whosoever makes any bet or wager, sells or purchases any pools, on the result of any election held under the laws of this state, or upon the election of any person to any office, post, or situation, which by the constitution or laws of this state is made elective, or upon the election of president or vice-president of the United States, or of any elector of president or vice-president of the United States, shall be fined not more than five hundred nor less than five dollars, or imprisoned not less than ten days, or more than six months; and when the amount put at hazard is between said sums, the fine shall be equal the amount so hazarded. Prosecutions under this section shall be commenced within one year from the time the offense is committed. [75 v. 57, § 11.]

No intoxicat-
ing liquors to
be sold on
election days
and drinking
places to be
closed.

Sec. 6948. Whoever sells, or gives away, any spirituous, vinous, or malt liquors on any election day, or, being the keeper of a place where any such liquors are habitually sold and drank, fails on any election day to keep the same closed, shall be fined not more than one hundred dollars, and imprisoned not more than ten days. [61 v. 24.]

The "election day" mentioned in Section 6948, Revised Statutes, is a whole day of twenty-four hours; and the keeper of a place where spirituous, vinous, or malt liquors are habitually sold and drank, is required to keep such place closed during the whole twenty-four hours of the day of any election.

Schuck v. State, 50 O. S. 493.

Sec. 7039. Whoever gives any money, property, fee or reward of any kind or nature, directly or indirectly, for the vote or for the influence of any person in favor of or against any candidate for nomination at any election held under the provisions of law relating to primary elections, or at any primary election held by any political party, whether the same be held in pursuance of the laws relating to primary elections within this state, or otherwise, shall be fined not less than one hundred dollars, and be imprisoned in the penitentiary not more than two years. [86 v. 363.]

Offering
bribes for votes
at primary
elections;
penalty.

Sec. 7040. Whoever, by threats, or otherwise, attempts to intimidate any elector, or any supervisor or judge of any election held under the acts mentioned in the last section, or in any manner interferes with or disturbs any such election, shall be fined not more than one hundred dollars, and imprisoned not more than thirty nor less than twenty days. [68 v. 29, § 6.]

Attempting to
intimidate
electors or
judges at
such election.

Sec. 7041. Whoever gives directly or indirectly any reward, fee, money or property to influence the vote of any delegate or any elector in favor of or against any candidate, or for any labor or service rendered to any candidate for nomination or election, or to be rendered to any candidate for nomination or election to any office whatever, or for any expense incurred, shall be fined not more than five hundred dollars, and be imprisoned in the penitentiary not more than five years. [86 v. 363.]

Bribery of
delegates or
electors.

Sec. 7042. A candidate for nomination to any office, before any convention held under the acts named in section seven thousand and thirty-nine, who pays, or promises to pay, directly or indirectly, any money or property, to any delegate, for the purpose of obtaining his influence or vote for such nomination in such convention, shall be fined not more than five hundred nor less than one hundred dollars, and, if nominated and elected to such office, shall be ineligible to hold the same, and shall be disqualified from voting or being nominated at any such election or convention. [71 v. 114, § 9.]

Candidate at
such election
paying or
promising
bribes.

Sec. 7043. A supervisor or judge of any such election who wilfully omits any duty imposed upon him by the provisions of chapter one, title fourteen, part first, and a person who votes at any such election, not being a citizen of the United States, or when he cannot become a qualified voter at such precinct at the next public election, or casts a ballot after objection has been made and sustained to his vote, or who votes more than once at any such election, at the same

Penalties for
omissions of
duty and
fraudulent
voting.

or a different precinct or poll, shall be fined not more than two hundred nor less than fifty dollars, or imprisoned in the county jail not more than sixty nor less than ten days, or both. [68 v. 29, §§ 4, 5.]

See *State v. Volkopf*, 8 O. D. 687.

To what elections subsequent sections applicable.

Sec. 7045. The subsequent sections of this chapter shall apply to all elections authorized by the laws of this state. [98 O. L. 226.]

Voting, not being a resident of the precinct twenty days.

Sec. 7047. Whoever votes in any election precinct, in which he has not actually resided for twenty days next preceding the election, or into which he shall have come for temporary purposes merely, shall be fined not more than five hundred dollars, or imprisoned not more than six nor less than three months. [73 v. 155; § 4.]

Voting, not being a resident of the county thirty days.

Sec. 7048. Whoever, being a resident of this state, votes in any county in which he has not been an actual resident for thirty days next preceding the election, shall be imprisoned in the penitentiary not more than three years nor less than one year. [65 v. 100, § 5.]

Voting, not being a resident of this state.

Sec. 7049. Whoever, being a resident of another state, votes or attempts to vote at any election in this state, shall be imprisoned in the penitentiary not more than five years nor less than one year. [98 O. L. 226.]

Voting more than once at the same election.

Sec. 7050. Whoever votes or attempts to vote more than once at the same election shall be imprisoned in the penitentiary not more than five years nor less than one year. [98 O. L. 226.]

Voting without a residence of one year; not being twenty-one years of age; not a citizen; not a convicted of crime and not pardoned.

Sec. 7051. Whoever votes at any election, not having been a resident of this state for one year immediately preceding the election, or not being twenty-one years of age, knowing that he is not of full age, or not being a citizen of the United States, knowing that he is not such citizen, or being disqualified by a conviction of crime, and not pardoned and restored to all the rights of a citizen, shall be imprisoned not more than six months nor less than one month. [39 v. 13, § 8.]

Procuring illegal vote.

Sec. 7052. Whoever counsels or advises another to give his vote, knowing that he has not been a resident of this state for one year immediately preceding the election, or that at the time of the election he is not twenty-one years of age, or that he is not a citizen of the United States, or that, by reason of other disability, he is not duly qualified to vote at the place where, or the time when, the vote is to be given, shall be fined not more than five hundred nor less than one hundred dollars, and imprisoned not more than six months nor less than one month. [39 v. 13, § 9.]

Sec. 7053. Whoever procures, aids, assists, counsels, or advises another to go or come into any county for the purpose of giving his vote in such county, knowing that the person is not duly qualified to vote in such county shall be imprisoned in the penitentiary not more than five years nor less than one year. [39 v. 13, § 10.]

Procuring an elector to go or come into a county of which he is not a resident to vote.

Sec. 7054. Whoever furnishes an elector who cannot read, with a ticket, informing him that it contains a name different from those which are written or printed thereon, with intent to induce him to vote contrary to his inclination, or fraudulently or deceitfully changes the ballot of any elector, by which such elector is prevented from voting for such candidate as he intended, shall be imprisoned in the penitentiary not more than three years nor less than one year. [39 v. 13, § 12.]

Deceiving an elector who can not read.

Sec. 7055. Whoever, either before or after the proclamation is made at the opening of the polls, fraudulently puts a ballot or ticket into the ballot box, or whoever personates any other person real or fictitious, living or dead, and votes or attempts to vote in the name of such other person as an elector in any precinct in this state, shall be imprisoned in the penitentiary not less than two years nor more than five years. [98 O. L. 226.]

Fraudulent voting.

Sec. 7056. A judge of any election who, after the counting of votes commences as required by law, postpones the counting of votes cast at such election, or adjourns for any time or to any place, or removes the ballot-box from the place of voting or from the custody or presence of all the judges of such election, shall be fined not more than one thousand nor less than one hundred dollars, and imprisoned not more than ten days. [69 v. 58, §§ 1, 2.]

Judges postponing, counting, adjourning, or removing ballot-box.

Sec. 7057. A judge of any election who knowingly permits any ballot or ticket, fraudulently placed in the ballot-box, if the same can be designated, to be counted with the legal votes cast at such election, shall be imprisoned in the penitentiary not more than three years nor less than one year. [69 v. 52, § 21.]

Judges of election knowingly counting fraudulent votes.

Sec. 7058. A judge of an election who knowingly receives, or sanctions the reception of a vote from any person not having all the qualifications of an elector prescribed by law, or receives, or sanctions the reception of, a ballot from any person who refuses to answer any question put to him in accordance with the requirements of the laws of this state relating to elections, or refuses to take the oath prescribed by the laws aforesaid, or refuses, or sanctions the refusal of any other judge of the election board to which the judge belongs, to administer any oath required by the laws aforesaid to be administered, or refuses to receive, or sanction the rejection of, a ballot from any person, knowing him to have all the qualifications of

Misconduct of officers of election; how punished.

an elector prescribed by law, or refuse, if requested, to permit the respective candidates at such an election, or not exceeding three of the friends of each of such candidates, to be present in the room where the judges are during the time of receiving and counting out the ballots; and a judge or clerk of an election, on whom any duty is enjoined by the laws of this state relating to elections, who wilfully neglects any such duty, or is guilty of any corrupt conduct in the execution of the same, shall be fined not more than one thousand nor less than three hundred dollars, and imprisoned not more than six nor less than three months. [73 v. 157; 77 v. 267.]

Unlawfully obtaining, or attempting to obtain possession of ballot-box or ballots.

Sec. 7059. Whoever, at any election, unlawfully, either by force, fraud, or other improper means, obtains, or attempts to obtain, possession of any ballot-box, or any ballots therein deposited, while the voting at such election is going on, or before the ballots are duly taken out of such ballot-box and enumerated by the judges of election according to law, shall be imprisoned in the penitentiary not more than three years nor less than one year. [53 v. 59, §§ 1, 3.]

Penalty for destroying ballot-box, ballots, or poll-books.

Sec. 7060. Whoever shall, from the time any ballots are cast or voted until the time has expired for using the same as evidence in any contest of election, unlawfully destroy, or attempt to destroy, any ballot-box or poll-book used at any election; or shall, within the same time, unlawfully destroy, falsify, mark, or write on any ballot cast or voted; or shall, within the same time, unlawfully change, alter, erase or tamper with any name contained on any ballot cast or voted shall be imprisoned in the penitentiary not more than five years nor less than one year. [78 v. 30.]

Penalty for fraudulent writing on poll-books or tally-sheets.

Sec. 7061. Whoever shall, from the time any ballots are cast or voted until the time has expired for using the same as evidence in any contest of election, wilfully and with fraudulent intent, inscribe, write, or cause to be inscribed or written, in or upon any poll-book, tally-sheet, or list, lawfully made or kept at any election in, or upon any book or paper purporting to be such, or upon any election returns, or upon any book or paper containing the same, the name of any person not entitled to vote at such election, or not voting thereat, or any fictitious name, or within the same time, shall wrongfully change, alter, erase, or tamper with any name word, or figure contained in such poll-book tally-sheet, list, book or paper; or falsify, mark, or write on such poll-book, tally-sheet, list, book or paper in any manner whatsoever, such act or acts being done with intent to defeat, hinder, or prevent a fair expression of the will of the people at such election, shall be imprisoned in the penitentiary not more than three years nor less than one year. [78 v. 30.]

Sec. 7062. Whoever has in his possession any falsely made, altered, forged, or counterfeited poll-book, tally-sheet, or list, or election returns, of any election, knowing the same to be falsely made, altered, forged, or counterfeited, with intent to hinder, defeat, or prevent a fair expression of the popular will at such election, shall be imprisoned in the penitentiary not more than three years nor less than one year. [67 v. 51, § 2.]

Possession of forged or altered poll-books or tally-sheets with fraudulent intent.

Sec. 7063. Whoever, at any election, marks the ballot of any elector, or hands a marked ballot to him to vote, with intent to ascertain how he voted, or prints for distribution any ballot contrary to the provisions of law; or distributes to an elector, or knowingly votes, any ballot printed or written contrary to the provisions of law, shall be fined not more than fifty dollars, and imprisoned not more than ten days. [65 v. 138, § 3; 71 v. 31, § 2.]

Marking ballots, or printing, distributing or voting ballots unlawfully written or printed.

Sec. 7066. Prosecutions under sections seven thousand and thirty-nine to seven thousand and sixty-five, inclusive, must be commenced within two years after the commission of the act complained of. [98 O. L. 227.]

Prosecutions.

PRIMARY ELECTIONS.

Sec. 2916. When any voluntary political association or party in any county, township or municipal corporation, by a vote of a majority of its executive or controlling committee, certified under oath by its chairman and secretary, shall cause notice of the holding of a primary election for the selection of party candidates, committeemen, delegates, or alternates to any party convention to be published, and shall make application therefor to the deputy state supervisors of elections or board of deputy state supervisors and inspectors of elections as the case may be, of such county, all as hereinafter provided, such primary election shall be held and conducted under the provisions of this chapter. [97 v. 439.]

When the provisions of this chapter apply.

Where voluntary primaries are held by a political party for the nomination of candidates for public office, the executive committee of such party in its call for the primary has authority to prescribe the qualifications of voters at such primary election. The committee in taking such action should be governed by the customs and usages of the party in making nominations of candidates. Its regulations should be reasonable so as to afford an opportunity to all electors of the political party to cast their votes at such election. L. 6-28-06.

See note to Sec. 2966-3, as to "Executive Committee."

Sec. 2917. Such notice shall be ordered and such application made not less than ten days prior to the time fixed for the holding of such primary election, and such notice and application shall state the purpose, time, manner and conditions of the holding of such primary election, and shall prescribe the qualifications not inconsistent with

Time of notice and application.

Registration
cities.

the provisions of this chapter, of the persons to vote at such election; provided, however, in cities where registration of electors is required by law, none but registered electors shall be permitted to participate in such primary election, and the deputy state supervisors of elections, or board of deputy state supervisors and inspectors of elections as the case may be, when so requested in such notice and application, shall, prior to such primary election, make such provision as shall be reasonable for the transfer upon the registration books and the registration of all persons, who may qualify themselves to vote at the next general election to be held after such primary election; and provided, further, that such primary election shall be held at the regular polling places in each of the voting precincts in such county, township or municipal corporation, and shall continue for a period of not less than three consecutive hours, and shall close not later than seven o'clock p. m. [97 v. 439.]

The expenses of the deputy state supervisors in making such provision as shall be reasonable for the transfer upon the registration books, and the registration of all persons who may qualify themselves to vote at the next general election to be held after such primary, should be paid out of the county treasury as other county expenses. Where the primary is held within a registration city for the purpose of nominating candidates for municipal officers, such expenses should be paid out of the City Treasury as other expenses. L. 8-1-06.

The primary election law does not apparently apply to district primaries, but it seems clear that where the committee of a party in the several counties of the district agree to hold such primaries for the nomination of a candidate for a district office, they may do so, in which case the result in each county may be determined by the proper canvassing board, and the result certified to the board of deputy state supervisors of elections of the most populous county of the district. The latter board should then proceed to canvass the returns of all the counties of the district, declare the result, and issue certificates of nomination to the successful candidates. It should also certify the result of the primary to the other boards of the district. In such case the cost of the conduct of such primary within each county should be paid by the proper authorities of the county as other county expenses are paid. L. 9-18-06.

See note to Sec. 2966-3, as to "rightful executive committee."

Notice when
to be published and
posted.

Sec. 2918. At least ten days previous to any such election such notice shall be published in a newspaper printed and of general circulation in such county; but the publication shall not be required in any county in which no newspaper is printed; the notice shall also be posted in at least three public places in each precinct within the territory in which the election is to be held. [97 v. 439.]

Conduct of
election.

Sec. 2919. Subject to the provisions of such notice, such primary election shall be under the exclusive control and supervision of the deputy state supervisors of elections or board of deputy state supervisors and inspectors of elections as the case may be, of such county, who

shall provide all ballots, poll-books, tally and summary sheets, other blanks and things necessary, and assign to each polling place two competent electors to act as judges and one competent elector to act as clerk of such primary election; provided, however, that such judges and clerks shall be of the political faith of the party holding such primary election and shall, whenever practicable, be the regular election officers. Such primary elections shall be conducted as required by the laws governing the conduct of general elections so far as the same may be applicable. The penalties provided for fraudulent voting in the sections of the Revised Statutes from seven thousand and thirty-nine to seven thousand and sixty-six, inclusive, shall be enforced for the same offenses at primary elections; and the judges and clerks shall be charged with the same powers and duties and be subject to the same penalties as the judges and clerks of general elections. At the close of each primary election, the judges and clerks shall forthwith proceed to count the votes cast and make return thereof to the deputy state supervisors of elections, or board of deputy state supervisors and inspectors of elections as the case may be, who together with the chairman of the executive or controlling committee ordering such primary election, shall constitute a canvassing board and shall canvass the returns of such primary election, determine all matters relative thereto and certify the result of such primary election to the executive or controlling committee ordering such primary election. Ties, if any there be, shall be determined by lot by such canvassing board. Provided, however, that for the purpose of determining the election of any candidate voted for in a single voting place only, the judges and clerks in charge of such voting place shall constitute such canvassing board, and shall have full power to declare the result and shall forthwith issue proper credentials of election. Judges and clerks shall be paid two dollars each for every such election and any judge or clerk delivering the returns as aforesaid to the deputy state supervisors of elections, or board of deputy state supervisors and inspectors of elections as the case may be, shall be allowed five cents a mile for the distance travelled by him in delivering same, and returning to his home. Deputy state supervisors of elections and deputy state supervisors and inspectors of elections shall each receive fifty cents per precinct and clerks of such boards seventy-five cents per precinct for such elections; provided, however, that the total compensation of such officers shall not exceed the maximum of compensation otherwise provided by law.

The expenses of municipal primary elections shall be defrayed by the municipality in which the same is held. The expense of all other primary elections shall be defrayed by the county. The deputy state supervisors of

elections, or board of deputy state supervisors and inspectors of elections as the case may be, shall not be required to hold a primary election for any party which cast less than ten per cent. of the total vote cast in such county at the last general election, nor shall the deputy state supervisors of elections, or board of deputy state supervisors and inspectors of elections as the case may be, be required to hold more than two primary elections for the same party in any one year. No delegate or alternate to any political convention in this state shall have power by proxy or otherwise to designate another person to serve as a delegate in his place or stead and any such delegate who shall give any power or proxy to another to serve in his place or stead shall be guilty of a misdemeanor and be fined not less than twenty-five dollars and not more than one hundred dollars. The voting booths, ballot-boxes, and other public property in the custody and control of the deputy supervisors of elections, or board of deputy state supervisors and inspectors of elections as the case may be, shall not be used for primary elections other than those held under the provisions of this act. [97 v. 440.]

Where a primary election is conducted under the provisions of sections 2916 to 2921a R. S. the deputy state supervisors must provide all ballots, ballot boxes, tally and summary sheets, other blanks and things necessary, and assign to each polling place two competent electors to act as judges and one competent elector to act as clerk of such primary election. Such judges and clerks shall be of the political faith of the party holding the primary, and whenever practicable should be the regular judges of election. L. 8-13-06.

Challenges—
by whom and
for what
cause made.

Sec. 2920. A qualified elector under the notice may challenge any vote offered, because the person offering it is not entitled to vote under the notice, or is not a citizen of the United States, or cannot be at the next election a legal voter of the precinct, or has received or been promised, directly or indirectly, any money, fee, or reward for his vote for any candidate at such election, or has voted before on the same day, at that or some other precinct, in the same election. [68 v. 27, § 4.]

Duty of the
judges when
vote chal-
lenged.

Sec. 2921. Thereupon one of the judges shall administer to the person offering to vote an oath that he will make true answers to such questions as may be put to him touching his qualifications to vote at such election and shall interrogate him as to his qualifications; if such person refuses to be sworn, or, being sworn, refuses to answer every question, his vote shall be rejected; but if the oath be taken and the questions answered satisfactorily and he be not successfully contradicted by the sworn testimony of witnesses who may be called, his oath shall be received and the word "sworn" shall be noted opposite his name on the poll-book. [97 v. 441.]

Sec. 2921a. Witnesses and challengers shall be admitted to the polling places in accordance with the reasonable regulations established by the executive or controlling committee ordering such primary election; and at all primary elections held within the boundary of any municipal corporation during the receiving and counting of the ballots, no person shall congregate or loiter upon the streets, alleys or sidewalks within one hundred feet of the polling place of any election, or within such distance of one hundred feet give or tender or exhibit any ballot or ticket to any person other than to a judge of the election, or exhibit any ticket or ballot which he intends to cast or within such distance solicit or in any way attempt to influence any elector in casting his vote. Any person wilfully refusing or neglecting to perform any of the duties prescribed in this act or any person wilfully violating the provisions thereof shall be deemed guilty of a misdemeanor and upon conviction thereof he shall be fined not less than five nor more than fifty dollars, or imprisoned in the county jail not less than five days nor more than thirty days or both at the discretion of the court. [97 v. 441.]

Witness and challengers admitted during receiving and count of votes; people to keep one hundred feet from polls; penalty.

Section 1. No person shall be allowed to vote at any primary election except he be an elector resident of the precinct, ward or township in which he desires to vote and except he voted with the political party holding such primary election at the last general election, providing he voted at all at such election, unless he be a first voter; nor shall any person vote more than one time, or at any other than at the polling place in that precinct, ward or township wherein he resides.

Who not allowed to vote at primary election.

Any person who shall violate the provisions of this act shall be fined not less than one hundred (\$100.00) dollars nor more than three hundred (\$300.00) dollars, or imprisoned in the penitentiary for one year, or both in the discretion of the court. [97 v. 107.]

Penalty for unlawful voting.

Section 2. Any person who shall solicit, request, demand or receive, directly or indirectly, any money, intoxicating liquor or other thing of value, or the promise thereof, either to influence his vote, or to be used, or under the pretense of being used to procure the vote of any other person or persons, or to be used at any poll or other place prior to or on the day of an election for or against any candidate for office, or for or against any measure or question to be voted upon at such election, shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred (\$100.00) dollars and not more than five hundred (\$500.00) dollars, or be imprisoned in the penitentiary for one year, or both in the discretion of the court. [97 v. 107.]

Bribery.

Penalty.

Witness testi-
fying shall be
exempt from
prosecution.

Sec. 3. In any prosecution brought under this act, when any person is called to testify, he shall be required to testify to all the facts of which he has any knowledge and upon so testifying he shall be deemed acquit of any guilt as to the matters to which he has so testified, and the fact that he has so testified shall forever be a bar to any prosecution brought against him for violating this statute as to such case or circumstance to which he may have been required to testify. [97 v. 107.]

VOTING MACHINES.

(1966-54.) Sec. 1. That any body or board of public officials, or any officer or officers, charged by law with the duty of providing material and supplies for holding an election or elections in any city, village, town, precinct, or other civil division of the state, may at any general or special election submit a proposition to the qualified voters thereof, to adopt a voting machine or voting machines, and whenever a majority of the electors of any said city, village, town, precinct or other civil division voting upon said proposition shall have declared therefor may purchase voting machine or machines for use at any or all of the election districts for which he, it or they are by law charged with the duty of providing with material and supplies for holding an election, at the expense of the city, village, town, county, precinct, or other civil division of the state now chargeable by law with the expenses of the material and supplies for holding general elections in such election district or districts. Provided, however, that no such voting machine shall be used, purchased or adopted until the commissioners hereinafter provided for, or a majority thereof, shall have made and filed their report certifying that they have examined such machine; that it affords each elector an opportunity to vote in absolute secrecy; that it enables each elector to vote a straight party ticket; that it enables each elector to vote a ticket selected in part from the nominees of one party, and in part from the nominees of any or all other parties, and in part from an independent nomination, and in part of persons not in nomination by any party or upon any independent ticket; that it enables each elector to vote a written or printed ballot of his own selection, for any person for any office for which he may desire; that it enables each elector, if he so desires, to cast one written or printed ballot of his own selection for all the officers for whom he is entitled to vote at such election; that it affords each elector an opportunity of voting for all the candidates for whom he is entitled to vote, and absolutely prevents his voting for any candidate more than once; and that it also prevents the elector voting for more than one person for the same office, unless he be lawfully entitled to vote for more than one person for that office, and in that event, it admits of his voting for as many persons for that office as he is by law entitled to vote for, and no more, at the same time preventing his voting for the same person twice; that the machine is so constructed that

Submission of question as to use of voting machines in elections.

Machine to be approved by commission; requirements of machine.

an elector may be permitted to vote for a candidate for whom he may be lawfully entitled to vote, and excluded from voting upon any question upon which he may not be lawfully entitled to vote; that such machine admits of the enjoyment of each elector of his full right and privilege in the exercise of the elective franchise under the constitution and laws of this State; that the machine is supplied with a booth so arranged that the operation of the machine by the elector, when voting cannot be seen, observed or known by any other person, unless such other person be inside the booth at the same time; that such machine, properly operated, will correctly register every vote cast; that the machine is constructed of such material that when properly cared for, there is little or no danger of its utility being impaired by any of the parts becoming rusted or corroded; that the machine may be safely and conveniently used by eight hundred electors in any one election district during the time allowed for holding a general election thereon. [94 v. 309.]

Commission to examine voting machines; duties and powers.

(2966-55.) Sec. 2. The present governor, secretary of state and attorney-general and their successors in office are hereby created and made commissioners to examine voting machines, and to make a report and certificate thereon, and, for such purpose, they are hereby authorized to employ such assistance as they, or a majority of them, may deem advisable, and the expenses thereof shall be payable out of any funds of the state not otherwise appropriated. The examination, report, or certificate of such commissioners, or a majority thereof, above provided for, shall not be required of each individual machine, but of every particular kind of machine before its adoption, use or purchase as herein provided. The certificate, when made by said commissioners, or a majority thereof, shall be filed in the office of the secretary of state. [93 v. 278.]

Certificate to be filed with secretary of state.

Machine must meet statutory requirements.

(2966-56.) Sec. 3. The voting machine or machines to be used, adopted or purchased as herein provided, must be so constructed as to meet all requirements specified in this act. [93 v. 278.]

How nominations shall appear on machine; general requirements of machine to enable elector to vote for his choice.

(2966-57.) Sec. 4. Party nominations shall be arranged on each voting machine either in columns or horizontal rows. Ballot captions of cardboard or paper, which shall have printed thereon, in plain, clear type, the party or other lawful designation of the nominee, amendment or other proposition submitted to vote, shall be so placed on said machines as to indicate to the voter what lever, push, knob, key, or other device is to be used or operated in order to vote in accordance with his choice. Such machines shall also be provided with a printed ballot or cardboard, upon which shall be printed in plain, clear type the name of the office and the name of the candidate or nominee therefor, or a concise statement of the amend-

ment, or question, or proposition, to be voted upon. And these shall be placed upon such machines in such manner as to enable the voter to readily vote in accordance with his choice. The irregular device shall be provided with similar cardboard or printed paper, except that the name of the candidate shall not be printed thereon; and the same shall be so placed on said machine as to show to the voter where to deposit the ballot for any person for a particular office. If two or more persons are to be elected to the same office, for different terms, the term for which each is to be elected shall be designated on such machines as above provided. [93 v. 279.]

(2966-58.) Sec. 5. Every part of the polling place shall be in plain view of the election officers, including the watchers, if any, except that the operation of the machine by the elector shall be obscured as herein provided. It shall be placed at least three feet from every wall or partition of the room, and at least three feet from the outer guard-rail, and at least four feet from the judge's table. Guard-rails shall be constructed at least three feet from the machine, with openings to admit electors to and from the machine, and no person shall be permitted within such guard-rails except to enter the booth for the purpose of voting. But one person shall be permitted within such booth at a time except that a disabled elector may be furnished such assistance and in such manner as is now or may hereafter be authorized by law, and not otherwise. [93 v. 279.]

Election officers to have view of entire polling place except operation of machine; location of machine.

Guard-rails: how constructed; who to be admitted within.

(2966-59.) Sec. 6. The party emblem, if any is in use in the state, shall be placed at the head of the party ticket in such manner as to be easily seen; and, in presidential elections, such machine may be provided in each column or horizontal line of party nominations with a separate push knob, lever, key or other device, shall be counted for each and every one of the candidates for presidential elector of such political party. And in each column or horizontal line may be one lever, push knob, key, or other device, with a label as above provided, with the name of the party and the words "straight ticket" printed thereon in plain, large type; and the operation of such lever, push knob, key or other device, shall vote the entire ticket, including presidential electors. [93 v. 270.]

Party emblem; how placed.

Arrangement for voting for presidential electors.

"Straight ticket."

(2966-60.) Sec. 7. The officer or officers now charged by law with the duty of furnishing such election districts with ballots shall furnish each polling place using such machine with all ballots, ballot captions, cards, counter labels and instruction cards herein required; and the same shall, on Saturday next preceding the election at which they are to be used, be delivered to the clerk of the city, village, town, or precinct where the same are to be used, or to such other officer in such city, town or village to

Delivery of ballots, ballot captions, cards, counter labels, and instruction cards for use in connection with machine.

whom ballots are now required by law to be delivered. [93 v. 280.]

Precaution to be taken before voting begins.

(2966-61.) Sec. 8. Before any voting is done on any such machine or machines, all the counters shall be placed so as to register "O," and shall not be again changed except as it is done by the electors in voting. [93 v. 280.]

Length of time voter permitted to remain within booth.

(2966-62.) Sec. 9. No voter shall remain with the voting machine booth longer than one minute, and if he shall refuse to leave the said machine after the lapse of one minute, he shall be removed by the judges. [93 v. 280.]

Closing of polls; machine to be locked; counting compartment to be opened in presence of authorized persons.

(2966-63.) Sec. 10. As soon as the polls are closed the ballot machine shall be locked against voting, and the counting compartment opened in the presence of the watchers and all other persons who may be lawfully within the room or voting place, giving full view to the dial numbers announcing the votes cast for each candidate, and for or against the various constitutional amendments, questions or other propositions. [93 v. 280.]

Counting and announcement of votes.

(2966-64.) Sec. 11. The judges shall then add together the votes cast for each candidate, and ascertain the number of votes each has received, and particularly announce the total vote for each candidate thus ascertained. Before leaving the room or voting place, and before closing and locking the counting compartment, the judges shall make and sign written statements or returns of such election, as now required by law, except that they shall not be required to attach any ballots, official or defective, thereto. The written statements or returns so made, after having been signed by the judges, shall be distinctly and clearly read in the hearing of all persons present, and ample opportunity given to compare the results so certified with the counter dials of such machines. After such comparison and correction, if any is made, the judges shall then close the counting compartment and lock the same. [93 v. 280.]

Judges required to sign returns before leaving room or locking counting compartment.

Returns to be read: comparison of results.

(2966-65.) Sec. 12. No ballot clerk shall be elected or appointed in any town or city that shall have adopted the use of the voting machine. [93 v. 280.]

Services of ballot clerk dispensed with.

Tampering with, impairing, or attempting to impair machine; penalty.

(2966-66.) Sec. 13. Any person who shall tamper or attempt to tamper with any such machine or machines, or in any manner intentionally impair or attempt to impair its use, and any person who shall be guilty of or attempt any dishonest practice upon any such machine, or with or by its use, shall be deemed guilty of a misdemeanor, and punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding five years, or by both such fine and imprisonment. [93 v. 280.]

(2966-67.) Sec. 14. All the provisions of the election law not inconsistent with this act shall apply to all elections in the precincts where such voting machines are used. And any provisions of law which conflict with the use of such machine or machines as herein set forth shall not apply to the precinct or precincts in which an election is conducted by use of said ballot machine or voting machine; provided, that in lieu of the submission of the question to the qualified electors in any city, village, town, precinct, or other civil division of the state, of adopting a voting machine or machines therein, as provided for in section one of this act, as amended April 16, 1900 (94 O. L., 308), it shall be the duty of any body or board of public officials or any officer or officers, or board of elections, or deputy state supervisors of elections, charged by law with the duty of providing materials and supplies for holding an election or elections, upon presentation of a petition signed by sixty-five per centum of the electors of any precinct, ward, township, village, city or county, voting at the last preceding general election, praying for the adoption of a voting machine or machines to be used at all the voting or polling places in such precinct, ward, township, village, city or county, to ascertain and declare whether or not sixty-five per centum of such electors have signed such petition, by comparing the names of such petition with the poll-books of such election, if the same have been preserved, otherwise upon satisfactory evidence. And if it appear that sixty-five per centum of such electors have so signed such petition, a voting machine or machines shall thereupon be deemed adopted for use, and shall be used, at all elections thereafter to be held in all the voting or polling places in such precinct, ward, township, village, city or county. And thereupon such body or board of public officials, or any officer or officers, or board of electors, or deputy state supervisors of elections, so charged by law with the duty of providing materials and supplies for holding elections in any such precinct, ward, township, village, city or county, may purchase and provide such voting machine or machines, the cost of which, when purchased and provided by any board or officer of a city shall be borne and paid by any such city, out of its general revenue fund, upon vouchers of such board or officer, made and certified, if by a board, by the president and secretary thereof, and if by an officer, by such officer, which shall be allowed by the city comptroller, city auditor, or director of accounts, in cities having such officers, and in other cities by the city clerk or other accounting officer, and upon his warrant paid by the treasurer of any such city; and when purchased and provided by any board or officer of a county, shall be paid out of the general fund of the county treasury, upon the written approval of a majority of the county commissioners, upon

Application of existing laws; conflicting laws not to apply.

Provision for adoption of voting machine upon petition of sixty-five per cent of electors.

vouchers of such board of officers, made and certified, if by a board, by the president and secretary, and if by an officer, by such officer. Upon presentation of such voucher or vouchers the county auditor shall issue his warrant upon the treasurer for the amount thereof, and the treasurer shall pay the same. Such vouchers shall, in all cases, be paid in the order of priority with respect to the presentation of claims against such general funds. [95 v. 420.]

"A writ of mandamus to compel a board of elections to grant the petition of sixty-five per centum of the electors of a voting precinct for the providing of a voting machine for their precinct, under the provisions of 95 O. L. 420, will not be issued, where it does not appear that there are funds on hand applicable to payment for such a machine, or that the board has been derelict in providing by proper levy a fund applicable to such purpose."

State Ex rel. Fauger v. Board of Elections, 24 O. C. C. 654.

INDEX.

	PAGE
ABSTRACT OF VOTES—(See Deputy State Supervisors of Elections.)	
Constitutional amendments, on.....	166
County officers and members of the general assembly; fees.....	37
Presidential electors	38
State, judicial and county officers, representatives in congress and members of the general assembly.....	158
Turnpikes, on question of general tax for.....	73
ADHESIVE SLIPS—	
Vacancy after printing of ballots, in case of.....	133
ADVERTISEMENT—(See Notice.)	
ALIEN—	
Naturalization of, procedure.....	4-10
AMENDMENT—	
Constitutional; manner of submission.....	165-167
Constitutional; return of vote cast for or against, abstract and canvass of vote; publication, etc.....	166
Form of ballot; action on by political party.....	165
ANNEXATION—	
Municipal corporation, one to another; election on question of.....	26
ARMY—(See Military Service.)	
ARREST—	
Electors, when privileged from.....	15
Loitering near polls, for.....	119
ASSESSORS—(See Township Officers.)	
Election of, when precinct divided.....	75
Municipalities divided into wards.....	27
Townships, certain, assessor districts in.....	27
BALLOT—	
Assistance in marking.....	149
Bonds for enlarging, improving or extending natural gas works, in submission of question of issue of.....	35
Bonds for township and municipal purposes, in submission of question of issue of.....	32
Burned after count.....	111, 151
Canvassing, entering and enumerating, manner of.....	151
Casting of—	
Folding of, by elector.....	148
Receipt and deposit of, by election officer.....	148
Secondary stub, detaching and examination of.....	149
Counted, when not to be, for certain office.....	147
Counting of, in cities having registration.....	109
Custody or delivery of, offenses pertaining to; penalty.....	153
Deceiving an elector who cannot read; penalty.....	171
Delivery of, to election officers.....	137
Deposited and counted, permitted to be.....	149
Destroying; penalty.....	172
Destroying, defacing, removing, hindering delivery, etc.; penalty.....	153
Destruction of counted and excess.....	109, 151
Devise to designate party candidate.....	134
Disputed, preservation of.....	152
Distributing, or having in polling room; penalty.....	117

BALLOT—Concluded.

	PAGE
Elections, all, shall be by.....	15
Extra and unofficial.....	138
Form and contents of.....	139, 142, 165
Fraudulent.....	167
Fraudulent voting.....	171
Fusion, printing of name of candidate on, in case of.....	127
Interference with elector in casting.....	119
Local option election in townships, for.....	42
Local option election in municipalities.....	42-50
Loitering near polls during receiving and counting of, etc.....	96, 119, 177
Lost or destroyed, replacing of.....	138
Marking, or printing, distributing or voting unlawfully written or printed.....	173
Marking, supplies and conveniences for.....	144
Packages, sealing, indorsement and delivery of.....	136
Permitting unlawful, in ballot-box; penalty.....	117
Preparation and casting of.....	145-148
Offenses pertaining to.....	154, 155
Preparation of—	
Marking, rules for—	
Assistance of judges.....	149
Black lead pencil, all marks to be by.....	145
Mixed ticket.....	146
Number of ballots to which elector entitled.....	145
Question, submission of.....	147, 165
Straight ticket.....	146
Misleading voter, or disclosing how he voted; penalty.....	154
Substitution of name of person not on ticket.....	147
Voting shelves, as to occupancy of.....	146
When two or more persons to be elected to same office.....	146
Surplus marks.....	147
Printing of, publication of notice of bids for; contracts for.....	33, 88, 136
Printing or use of, offenses pertaining to; penalty.....	153, 173
Proof, submission of.....	136
Question, separate in case of submission of.....	140
School elections, in; how printed and marked.....	59
Sealing, indorsement and delivery.....	88, 136
Secondary stubs, detaching, examination and destruction of.....	149
Substitution when no nomination made or name of nominee omitted; marking in such case.....	147
Supplies for marking, removing or destroying; penalty.....	153
Technicalities, disregard of.....	147
Unlawful to have in polling room in certain cities.....	117
Unlawfully obtaining, or attempting to obtain, possession of; penalty.....	172
Unvoted, destruction of.....	150
Return of, by elector to election officer.....	149
Vacancy after printing of, how filled.....	133

BALLOT-BOX—

Arrangement of.....	107, 108, 144
Board of education separate, in election for members of.....	59
Custodian of.....	88, 90
Destroying; penalty.....	172
Inspection of, before opening of polls, etc.....	107, 119
Judge removing; penalty.....	171
Location of, on election day, in cities.....	108
Opening of.....	109, 151
Purchase and care of.....	90, 93
Separate, in case of submission of question.....	140
Unlawfully obtaining, or attempting to obtain, possession of; penalty.....	172
Women, separate for.....	60

BETTING—

Elections, on, unlawful; penalty.....	168
---------------------------------------	-----

BLANKS—

PAGE

Custody or delivery of, offenses pertaining to; penalty.....	153
Delivery of, to election officers.....	137
Forms for	125
Lost or destroyed; replacing of.....	138

BOARD OF CANVASSERS—(See Canvass.)**BOARD OF EDUCATION—**

Ballot, how to be printed; marking of.....	59
Ballots for, in election precincts.....	136
Centralization, duty in relation thereto.....	66
City districts	60-63
Elections, levy for expenses of.....	135
High school, official district for.....	71
Return and canvass of votes for members of.....	89
Schoolhouse, levy of tax and issue of bonds for.....	71
Schools, submission of question of additional levy for.....	72
Special districts	67-70
Township districts	64-65
Village districts	63
Women, rights of.....	60

BOARD OF ELECTIONS—(See Deputy State Supervisors.)**BONDS—**

Municipal, purposes for which may be issued; tax for redemption; submission of question to voters.....	29-35
Schoolhouse, submission of question of issue of.....	71
Township, purposes for which may be issued; tax for redemption; submission of question to voters.....	29-35
Turnpikes, for	73

BOOTHES AND GUARD-RAILS—

Furnishing; care, arrangement; number of voting shelves, etc.....	88, 143
---	---------

BRIBERY—

Delegates or electors, of; penalty.....	169
Forfeiture of elective franchise by reason of conviction of.....	15
Giving bribe; penalty.....	169
Competent witness in prosecution for.....	157
Forfeiture of office for.....	157
Intimidating voter by (U. S. law).....	10
Primary election; offering bribes to voters at; penalty.....	169
Receiving bribe; penalty.....	156
Competent witness in prosecution for.....	157
Disfranchisement for	157

CANDIDATE—(See Nomination.)

Bribery of delegate or elector; penalty.....	169
Ineligible to serve as judge or clerk.....	125
Nominee by petition, substitution of.....	125
Other political party, of, substitution of.....	125
Primary election, offering bribe at; penalty.....	169
Substitution of name and marking of ballot when regular nominee omitted	147

CANVASS—

Abstracts by deputy state supervisors of elections.....	89, 158
Board of education, of vote for members of.....	89
City board of canvassers, constitution and duties of.....	114
Constitutional amendment, vote on, of.....	166
Judges and clerks of election, by.....	151
Justices of the peace, of vote for.....	89
Loitering near polls during.....	96, 119
Municipalities, of vote in.....	28, 89, 114
Municipal officers, of vote for.....	89
Presidential electors, of return for.....	38
Primary elections, of result of.....	175
Special election, of vote of certain officers voted for at.....	159

CANVASS—Concluded.	PAGE
Township officers, of vote for.....	89
Turnpikes, of vote on question of general tax for.....	73
CARDS OF INSTRUCTION—	
Custody or delivery of, offenses pertaining to; penalty.....	153
Defacing, removing, etc.; penalty.....	153
Delivery of, to election officers.....	137
Forms for.....	125
Lost or destroyed, replacing of.....	138
Placed, where to be.....	138
Printing of, publication of notice of bids for; contracts, etc.....	88, 136
CERTIFICATE OF ELECTION—	
Special election, of certain officers at.....	159
Circuits and districts, in.....	159, 163
County officers and members of the general assembly.....	37, 40
Deputy state supervisors to issue.....	37, 40, 88, 163
Presidential electors.....	37
State, judicial and county officers and justices of the peace, fees....	40
CERTIFICATE OF NOMINATION—	
Contents of, etc.....	126-128
Defect in, manner of correcting.....	133
Device to designate party candidates.....	134
District or circuit, in, decision of questions as to.....	131
Filing of; objections to; validity of, etc.....	88, 130
Forms for.....	125
Objections to validity.....	130
Offenses pertaining to; penalty.....	153
Preservation and inspection of.....	130
Transmission of certified copies.....	88, 134
CHALLENGE—	
Challengers, party, designation, rights, privileges and oaths of, etc.....	107, 144
Elector may, when.....	122
Judges of election shall, when.....	122
Proceedings of judges upon.....	122-124
Oath of challenged person.....	109, 122, 124
Primary election, at.....	176
Questions to be put by judges.....	123
Registration law, under.....	100, 101, 107
Rejection of vote.....	124
"Sworn," entry of, on poll-book.....	124
Who may.....	145
CHALLENGER—(See Challenge.)	
CHIEF DEPUTY—(See Deputy State Supervisors of Elections.)	
CHIEF SUPERVISOR—(See Supervisors of Elections.)	
CHILDREN—	
Born abroad, as to citizenship of.....	3
CIRCUIT—	
Abstracts and certificates of election in.....	159, 163
Certificates of nomination and nomination papers—	
Decision of questions as to.....	131
Defect in, manner of correcting.....	133
Filing of.....	130
Objections to.....	131
Transmission of certified copies.....	134
CITIZENSHIP—(See Elector.)	
Ohio constitution, qualifications of electors.....	15
Forfeiture of citizenship.....	15
United States laws—	
Citizens, who are.....	3
Expatriation, right of, declared.....	4
Forfeiture of.....	3, 4
Exemption from forfeiture.....	3
Naturalized citizens, protection of, in foreign countries.....	4
Race, color, or previous condition not to affect right to vote....	4

CITY—(See Municipal Corporations; Registration.)	PAGE
CITY BOARD OF CANVASSERS—(See Canvass.)	
CITY BOARD OF ELECTIONS—(See Deputy State Supervisors.)	
CIVIL RIGHTS—	
Conspiracy to injure or intimidate citizens in the exercise of.....	10, 11
Depriving citizens of, under color of state laws.....	11
Marshal refusing to receive or execute process.....	11
Obstructing execution of process in civil right cases.....	11
CIVIL TOWNSHIP—	
Elections in, conduct of, etc.....	19-23
CLERK—(See Deputy State Supervisors of Elections.)	
CLERK OF MUNICIPALITY—	
Ballot—(See Ballot.)	
Ballot-boxes, duty as to.....	90
Booths, guard-rails, etc., duty as to.....	143
Canvass of vote for municipal officers.....	89
Expenses of elections in municipality situated in two or more counties, apportionment of	135
CLERKS OF ELECTION—	
Appointment; term; apportionment politically; vacancy; compensation; removals	85
Ballot—(See Ballot.)	
Canvassing, entering and enumerating, manner of.....	151
Misleading voter or disclosing how he voted; penalty.....	154
Preparation and casting of.....	145-149
Result, certified copies of.....	151
Candidate ineligible to serve.....	125
Challenge, may	144
Compensation	85, 112, 138
Duties; penalties to which subject.....	88
Misconduct of; penalty.....	171
Oath	87
Period during which shall not separate nor leave polling place under penalty	152
Primary election, selection, duties and compensation at.....	175
Registration, in cities having—	
Appointment; term; qualifications; oath.....	94
Certificate of appointment.....	96
Certificate of result for board of deputy state supervisors and witness	105
Certificate to poll-book.....	109
Compensation; how paid.....	94, 112, 138
Examination, appearance for; penalty for failure to appear, or refusal or neglect to qualify.....	95
Exemption from jury and military duty.....	96
Proceedings upon close of polls.....	109-111
Removal	95
Substituted, on election day; notice.....	96
Vacancy	95
Return of vote for township and municipal officers, members of boards of education and justices of the peace.....	89
Returns, tally-sheets and poll-books, making, transmission and pre- servation of	152
Supplies for conducting elections, offenses pertaining to custody or delivery of; penalty	153
"Sworn", when to enter word on poll-book.....	124
Term	85
Vacancy	85
Votes cast, certification of.....	151
COLOR—	
Right to vote, not to affect.....	4
COMMISSIONS—	
Officers, of; fees.....	40

	PAGE
COMMITTEE—(See Executive Committee.)	
COMMITTEEMAN—(See Precinct Committeeman.)	
COMPENSATION—(See Fees.)	
CONGRESS—	
Representative in, election and term of.....	36
Vacancy, special election to fill.....	36
Abstracts in such case.....	162
CONSPIRACY—	
Civil rights, to injure or intimidate citizens in the exercise of.....	10, 11
Office under United States, to prevent accepting or holding.....	12
Protection of the laws, to deprive any person of equal.....	12
CONSTABLE—	
Election; term, etc.....	20
Loitering near polls, duty as to.....	119
Notice of annual township election, to serve.....	20
Obey and aid judges of election, shall; penalty.....	97
CONSTITUTIONAL AMENDMENT—	
Action on by political party, etc., return of vote on; abstract and canvass of vote; publication, etc.....	165-167
Manner of submission; printing on ballots.....	165-166
CONTEST OF ELECTION—	
Presidential electors, of.....	37-39
CONTRACT—	
Printing, for.....	136
CONVENTION—(See Candidate.)	
Bribery of delegate at; penalty.....	169
Proxies, unlawful in.....	176
CONVICT—	
Incompetent to be an elector or hold office; restoration of rights; penalty.....	168, 170
COSTS—	
Defrayed, how.....	94, 112, 113, 135
COUNCIL—(See Municipal Officers.)	
Bonds, municipal, purposes for which may issue; tax for redemption; submission of question to voters.....	29-35
Levy for expenses of elections.....	135
Places of holding elections.....	27, 75
Registration of electors, may provide for.....	118
Turnpikes, bonds and tax for.....	74
COUNCILMAN—(See Council.)	
COUNTY—	
Question, submission of to voters.....	164
COUNTY BOARD OF CANVASSERS—(See Canvass.)	
COUNTY COMMISSIONERS—(See County Officers.)	
Levy for expenses of elections.....	83, 135
Notice of election in civil townships, to give.....	19
Organization of original surveyed townships, duties as to.....	17, 18
Turnpikes, questions of general tax for.....	73
COUNTY ELECTIONS—	
Proclamation and time of.....	35
COUNTY OFFICERS—	
Certificate of election and abstract of votes.....	40, 158
Election of, proclamation and time of.....	35
Tie vote for, to be determined by lot.....	37
CRIMES AND OFFENSES—	
Ohio laws—	
Ballot—	
Custody or delivery of, offenses pertaining to.....	153
Destroying.....	172
Marking or printing, distributing or voting unlawfully written or printed.....	173
Possession of, unlawfully obtaining or attempting to obtain..	172

CRIMES AND OFFENSES—Continued.

PAGE

Ohio Laws—Continued.

Ballot—Concluded.

Preparation and casting of, offenses pertaining to..... 154
Printing or use of, offenses pertaining to..... 153, 173

Ballot-box—

Destroying 172
Possession of, unlawfully obtaining or attempting to obtain.. 172

Ballots, blanks, poll-books, cards of instruction, etc., offenses
pertaining to custody or delivery of..... 153

Betting on elections..... 168

Bribery—

Delegates or electors, of..... 169

Giving bribe; competent witness in prosecutions for; for-
feiture of office for..... 155, 157

Receiving bribe; competent witness in prosecution for; dis-
franchisement for 156, 157

Certificates of nomination, letters of withdrawal, ballots, cards of
instruction, supplies for marking ballot, delaying voter, etc.;
offenses pertaining to..... 153

Clerks of election, misconduct of..... 171

Misleading voter, or disclosing how he voted..... 154

Deceiving an elector who cannot read..... 171

Deputy state supervisor of elections or clerk, violation, neglect or
wrong performance of duty, or disobedience by..... 89

Employer refusing employe time off to vote..... 157

Felony, incompetency of person convicted of, to be an elector or
hold office 168, 170

Forfeiture of elective franchise for..... 15

Fraudulent voting 170

Indictment, how election is averred in; what counts may be joined
in 168

Interfering with elector in casting his ballot..... 120

Intimidating voter, or impeding or preventing free exercise of
elective franchise; competent witness in prosecution for..... 156

Intoxicating liquors, selling or giving away, or keeping place
where sold open on election day..... 168

Judges of election, offenses by..... 171

Misleading voter or disclosing how he voted..... 154

Local option, violation of acts providing..... 41, 42, 46, 53

Loitering near polls..... 96, 119

Poll-book and tally-sheet—

Custody or delivery of, offenses pertaining to..... 153

Destroying 172

Fraudulent writing on..... 172

Possession of forged or altered, with fraudulent intent..... 172

Primary elections—

Attempting to intimidate electors or judges at..... 169

Bribes, offering, for voters at..... 169

Omissions of duty and fraudulent voting..... 169

Proxies, delegates selected giving..... 176

Procuring illegal vote..... 170

Procuring an elector to go or come into a county of which he is
not a resident to vote..... 170

Prosecution of violation of election laws..... 90, 155

Prosecutions, time within which to be commenced..... 157, 173

Public officer, violation, neglect, or wrong performance of duty
or disobedience, by..... 155

Register, damage or destruction of..... 94

Registrar failing to perform his duties..... 94

Registrar, judge or clerk of election failing to appear for exam-
ination or refusing or neglecting to qualify..... 94

Registration laws, under (See Registration)..... 94-96, 113-118

CRIMES AND OFFENSES—Concluded.

Ohio Laws—Concluded.

PAGE

Voting—

Fraudulent	170
More than once at the same election.....	170
Not being a resident of this state.....	170
Not being a resident of the county thirty days.....	170
Not being a resident of the precinct twenty days.....	170
Without a residence of one year; not being twenty-one years of age; not a citizen; convicted of crime and not pardoned.	170
Voting machine, tampering with or impairing.....	182

United States laws—

Armed troops, bringing of, to places of election.....	12
Civil rights cases, obstructing execution of process in.....	11
Conspiracy—	
Civil rights, to injure or intimidate citizens in the exercise of.....	10, 11
Equal protection of the laws to deprive any person of.....	12
Office under United States, to prevent accepting or holding.....	12
Depriving citizens of civil rights under color of state laws.....	11
Desertion from military or naval service.....	3, 4
Draft into military or naval service, avoiding.....	4
Intimidating voters by bribery or threats.....	10
Marshal refusing to receive and execute process.....	11
Naturalization, violation of laws in reference to.....	8-10
Right of suffrage, interference with, etc., by army or naval officer	4, 11-13

DELEGATE—

Bribery of; penalty.....	169
Proxy, may not appoint.....	176

DEPUTY MARSHAL—(See Marshal.)

DEPUTY STATE SUPERVISORS OF ELECTIONS—(See Registration.)

Abstracts of returns, to make and transmit.....	89, 166
Abstract of votes—	
Certifying, signing and depositing of.....	160
Circuits and districts, in.....	159, 163
Congress, in election to fill vacancy in office of member of.....	162
Constitutional amendment, on.....	166
Copies, making and transmission of certified.....	162
County officers and members of the general assembly, for; fee....	37
Making, time and manner of.....	158
Special election, for certain officers voted for at.....	159
State, judicial and county officers, representatives in congress and members of the general assembly, for.....	159-163
Validity of returns, as to.....	160
Appointment, qualifications, terms, vacancies and removals.....	77-82
Assessor districts, duties not interfered with by act providing for....	27
Assessors, election of, when precinct divided.....	76
Ballot—(See Ballot.)	
Disputed, preservation of.....	152
Extra and unofficial.....	139
Proof, submission of.....	136
Sealing, indorsement and delivery of.....	88, 136
Ballot-boxes, purchase and care of.....	90, 93
Ballots, blanks, poll-books, tally-sheets, etc.; delivery of.....	88, 137
Lost or destroyed, replacing of.....	139
Bond of bidder for printing.....	137
Bonds, township or municipal, duties when question of issue of, to be submitted to voters.....	32, 34
Booths, guard-rails, voting-shelves, etc., furnishing, care and custody of, etc.	88, 143

DEPUTY STATE SUPERVISORS OF ELECTIONS—Concluded.

	PAGE
Certificates of election, to issue.....	40, 89
Circuits and districts, in; fee.....	40, 89, 159, 163
County officers and members of the general assembly of; fees.....	40, 89, 158
Judicial and county officers and justices of the peace; fees.....	40, 89, 158
Special election, of certain officers elected at.....	159
Certificates of nomination and nomination papers—	
Defect in, manner of correcting.....	133
Filing of	88, 129
Objections to	130
Transmission of certified copies.....	88, 134
Chief deputies and clerks, questions to be decided by.....	131
Chief deputy—	
Certificates of nomination and nomination papers, filing of.....	88, 129
Defect in, manner of correcting.....	133
Objection to	131
Transmission of certified copies.....	88, 134
Selection and term of.....	83
Clerk—	
Oath	87
Power to administer.....	83
Organization, report of	83
Selection, term and salary.....	83
Violation, neglect, or wrong performance of duty, or disobedience by; penalty	89
Clerks of election, appointment of; removals; oath.....	85-87
Compensation	85
Creation of office.....	80
Duties, general	80, 88
Duty, violation, neglect or wrong performance of, or disobedience; penalty	89
Expenses of elections, how defrayed.....	135
Forms of guidance.....	125
Investigation of irregularities, or non-performance of duty by election officer; report; prosecutions.....	90
Judges of elections, appointment of; presiding judge; removals; oath	85-87
Justice of the peace, result of election for, to be certified to.....	89
Laws applicable to elections, distribution of.....	85
Nominations—(See above, Certificates of Nominations and Nomination Papers)	88, 125-133
November election, returns of.....	90
Oath	87
Power to administer.....	86
Organization; report thereof.....	81
Poll-book, delivery of, at polling place.....	88
Furnishing of	90
Paper to be received as.....	160
Precinct, division, rearrangement, combination of, etc.....	75
Printing, notice of bids for; contracts; bond of bidder, etc.....	88, 136
Qualifications	78
Questions to be submitted to state supervisor, when.....	88, 131
Removals	79
Returns of election, to receive, make abstracts of, etc.....	89
Sessions	81, 106
Tally-sheets, furnishing of.....	96
Terms of office.....	78
Tie votes for county officers and members of the general assembly to be determined by lot.....	37
Vacancy in office.....	78
Vacancy on ticket, manner of filling	133
DEPUTY STATE SUPERVISORS AND INSPECTORS OF ELECTIONS—(See Deputy State Supervisors of Elections.)	
Appointment, qualifications, term, vacancies, etc.....	78
Chief deputy, selection and term of.....	81

DEPUTY STATE SUPERVISORS AND INSPECTORS OF ELEC- TIONS—Concluded.	PAGE
Clerk and deputy clerk—	
Selection, term and salary.....	80, 83
Compensation	83, 112
Creation of office.....	78
Duties, general	78, 85, 88
Term of office.....	78
Vacancies	78
DESERTERS—	
Forfeiture of citizenship by.....	3, 4
Exemption from forfeiture.....	3
DEVICE—	
Party candidates, to designate.....	134
DISFRANCHISEMENT—	
Receiving bribe, for	157
DISQUALIFICATIONS—	
Office under United States, for holding.....	13
DISTRICT—	
Abstracts and certificates of election in.....	158, 163
Certificates of nomination and nomination papers, filing of.....	88, 129
Decision of questions as to.....	88, 131
Defect in, manner of correcting.....	133
Objections to	130
Transmission of certified copies.....	88, 134
DITCH SUPERVISOR—	
Election and term of.....	21
DIVISION—	
Precincts, of	75, 76
DRAFT—	
Citizenship, forfeiture of, for avoiding.....	4
ELECTION PRECINCTS—(See Precincts.)	
ELECTIONS—(See Various Titles.)	
Ohio laws—	
Arrest, when electors privileged from.....	15
Ballot, all elections shall be by.....	15
Bonds for township and municipal purposes, submission of ques- tion as to issue of.....	32, 34
Congressional, time of.....	35
County, proclamation and time of.....	35
Expenses of, how defrayed; levy of tax, etc.....	84, 94, 112, 135
Laws applicable to, collation, publication and distribution of.....	85
Local option in municipalities.....	42-50
Local option, in townships.....	41
Municipal—	
First, in municipality.....	25, 27
Officers, of, generally.....	27, 28
Proclamation of mayor as to sale of liquor.....	29
Registration	91-118
Surrender of corporate rights, to determine question of.....	26
Places of holding, who to determine; notice in certain case.....	27, 75, 93
Presidential—(See Presidential Elections).....	37-40
Primary	173-178
Public, how held and conducted.....	125
Public officers, conduct of elections of.....	125
Registration laws—(See Registration).....	91-118
School—(See School Elections).....	59-72
State, proclamation and time of.....	35
Supervisory laws	77-91
Township—	
Annual; constable to post notice of, etc.....	19, 20
Civil, in; conduct of, etc.....	19-23
Held, when and how; returns of.....	18, 33, 89

ELECTIONS—Concluded.	PAGE
Ohio Laws—Concluded.	
Township—Concluded.	
Officers of; terms, etc.....	20
Original surveyed, in; conduct, notice of, etc.....	17-19
Place of holding, township trustees to fix.....	19
Public library, for.....	22
Returns of	21, 89
Turnpikes, on question of general tax for.....	73
Voting machines, purchase and use of, in.....	179-184
Who may vote at.....	15
United States laws—	
Bringing armed troops to places of.....	12
Interference with, by army or naval officers.....	4, 12, 13
Race, color or previous condition not to effect the right to vote....	4
ELECTIVE FRANCHISE—(See Right of Suffrage.)	
Forfeiture of, for receiving bribe.....	157
Impeding or preventing free exercise of; penalty.....	156
Competent witness in prosecutions for.....	157
Ohio constitutional provisions as to.....	15
United States laws relating to.....	10-13
Women, rights of.....	60
ELECTOR—(See Crimes and Offenses.)	
Ohio laws—	
Application by electors for organization of original surveyed town-	
ship	17
Arrest, when privileged from.....	15
Ballot—(See Ballot.)	
Preparation and casting of.....	145-148
Assistance in marking.....	148, 154
Offenses pertaining to; penalty.....	153, 154
Bribery of; penalty.....	155, 157, 169
Competent witness in prosecutions for.....	157
Challenges—(See Challenge)	100, 101, 107, 108, 144, 176
Convict incompetent to be; penalty.....	168, 170
Eligibility for voting or holding office, power of general assembly	
as to	15
Idiot or insane person not entitled to privileges of.....	15
Intimidating, or impeding or preventing free exercise of elective	
franchise; penalty; competent witness in prosecutions for....	156, 157
Local option election in township, who permitted to vote at.....	41
Misleading, or disclosing how he voted; penalty.....	154
Municipality, who is elector of.....	28
Persons not considered residents of Ohio.....	15
Presidential—(See Presidential Elections).....	37-40
Primary election, attempting to intimidate elector at; penalty....	169
Qualifications of persons to vote at.....	173, 176
Qualifications of, under Ohio constitution.....	15
Questions submitted to, vote necessary for adoption of, etc.....	165
Registration—(See Registration)	91-118
Residence—(See Residence)	120-122
Screening and convenience, provisions for.....	143
Substitutions when no nomination made or name of nominee	
omitted; marking of ballot in such case.....	148
United States laws—	
Crimes against elective franchise.....	4, 10-13
Officer of army or navy interfering with, etc.....	4, 12, 13
Race, color or previous condition not to affect right to vote.....	4
ELIGIBILITY—	
Convict of, to vote or hold office; penalty.....	168, 170
Electors of president and vice-president, of.....	37
General assembly's power as to eligibility for voting or holding office..	15
EMPLOYMENT—	
Person may absent himself from, to vote.....	156

EXECUTIVE COMMITTEE OF POLITICAL PARTY—	PAGE
Ballot, submission of proof of.....	136
Canvass of returns of primary elections.....	175
County, designation of inspectors of count by.....	150
Deputy state supervisor of elections, recommendation of.....	77, 80, 83
Witnesses and challengers in cities, designation of.....	107
EXPATRIATION—	
Rights of, declared.....	4
EXPENSES—	
Defrayed, how	83, 94, 112, 135
FEES—	
Clerks of election—	
Compensation of	85, 112, 138
Cities having registration; how paid.....	94, 112
Primary elections	175
Commission, fee for.....	40
Deputy state supervisors of elections, compensation of.....	83, 112
Abstract of votes for county officers or members of the general assembly; fee for making.....	37
Clerk; salary of.....	83, 84, 93, 112
Judges of election—	
Compensation of	85, 112, 138
Cities having registration; how paid.....	94, 112
Primary elections	175
Presidential elector, fees and mileage of.....	40
Registrars, compensation of; how paid.....	94, 112
FELONY—(See Crimes and Offenses.)	
FINE—(See Penalty.)	
FOREIGN COUNTRIES—	
Protection of naturalized citizens while in.....	4
FORFEITURE—	
Citizenship of	3, 4, 15
Exemption from forfeiture.....	3
Office of, for giving bribe.....	157
FRANCHISE—(See Elective Franchise.)	
FRAUDULENT BALLOT—(See Ballot.)	
FUSION—	
Printing of name of candidate on ballot in case of.....	127
GENERAL ASSEMBLY—	
Certificate of election of member; abstract of votes.....	37
Elective franchise, power as to forfeiture of.....	15
Member to deliver copy of abstract to president of the senate.....	160
President of the senate, copies of abstracts to be forwarded to.....	160
Tie votes for members to be determined by lot.....	37
Vacancy in office of member of.....	37
GENERAL ELECTION—	
How expenses of, defrayed.....	135
GOVERNOR—	
Certificate to presidential elector of all electors elected.....	39
Commissions of officers; fees.....	40
Contest of presidential elector's election, as to.....	38
Presidential electors, certificates and notice of election of.....	37, 39
Tie vote for presidential elector.....	39
Vacancy in office of representative in congress or member of general assembly, writ of election in case of.....	36
GUARD-RAILS—(See Booths and Guard Rails.)	
HAMLET—(See Municipal Corporations.)	
HEARSE—	
Question of purchase in townships to be submitted to vote.....	22
HIGH SCHOOL—	
Special district for.....	71

IDIOT—	PAGE
Elector, not entitled to privileges of.....	15
ILLEGAL VOTE—(See Crimes and Offenses.)	
INCORPORATION—	
Of territory surrounding summer resort, etc., submission of question to vote	25
Original surveyed township.....	17-19
INDICTMENT—	
How election averred in; what counts may be enjoined in.....	167
INFIRMARY—	
Legal residence of inmates.....	122
INSANE—	
Elector not entitled to privileges of.....	15
INSPECTOR—	
Party, appointment and privileges of.....	107, 150
INSTRUCTION—(See Cards of Instruction.)	
INTERFERENCE—	
Elector, with, in casting his ballot.....	120
Officers of United States army or navy, by.....	4, 13
INTIMIDATION—	
Attempting to intimidate elector or judge at primary election, penalty..	169
Voter, of; competent witness in prosecutions for.....	157
Voters, of, by bribery or threats (U. S. law).....	4
INTOXICATING LIQUORS—	
Local option in townships.....	41
Local option in municipalities.....	42-50
Proclamation of mayor as to sale of.....	27-28
Selling or giving away, or keeping place where sold open on election day; penalty	168
JUDGES OF ELECTION—	
Appointment; term; apportionment politically; vacancy; presiding judge; compensation; removals.....	85, 94
Ballot—(See Ballot.)	
Assistance of elector in marking.....	149
Canvassing, entering and enumerating, manner of.....	109, 151
Custody or delivery of, offenses pertaining to; penalty.....	153
Delivery of	137
Deposited and counted, permitted to be.....	149
Destruction of counted and excess.....	109, 150
Dispersing of persons interfering with casting of.....	120
Disputed, duty as to.....	152
Extra and unofficial.....	138
Lost or destroyed, replacing of.....	138
Misleading voter or disclosing how he voted; penalty.....	151
Preparation and casting of.....	145-148
Result, announcement and certified copies of.....	151
Unvoted, destruction of.....	109, 150
Vacancy, after printing of, papers in case of.....	133
Ballot-box, inspection of, before opening of polls.....	107, 119
Removing; penalty	171
Return of, to proper officers.....	90, 111
Booths, guard-rails, etc., duty as to.....	144
Candidates ineligible to serve.....	125
Cards of instruction, where to be placed.....	138
Challenge—(See Challenge).....	122-124
May	141
Party challengers, oath and privileges of.....	107, 108, 143
Primary elections	175
Compensation—(See Fees)	85, 112, 138
Duties; penalties to which subject.....	88
Fraudulent votes, knowingly counting; penalty.....	171
Loitering near polls, powers and duties as to.....	119
Misconduct of; penalty.....	171
Oath	87

JUDGES OF ELECTIONS—Continued.

	PAGE
Period during which shall not separate nor leave polling place under penalty	152
Polls, when to be opened and closed.....	107, 118
Polling place, who admitted to.....	107, 150
Postponing counting, adjourning or removing ballot-box; penalty....	171
Presiding Judge—	
Ballots, etc., duty as to delivery of.....	137
Designation of	85
Oath, who may administer to; power to administer.....	85
Returns of elections.....	111, 152
Primary, election, selection, duties and compensation at.....	174, 175
Attempting to intimidate judge at; penalty.....	169
Omission, of duty at, penalty.....	169
Question, as to submission of.....	140
Registration, judges in cities having—	
Appointment; term; qualifications; oath.....	94-96
November and other elections, as to.....	114
Ballots, destruction of excess.....	109, 111
Certificate of appointment.....	96
Certificate of board of deputy supervisors entitles elector to vote in case of involuntary mistake in registering.....	110
Certificate of result for board of deputy supervisors and witness; announcement from police, telegraph or telephone station....	110
Chairman calling for ballots, compensation of.....	138
Challenges—(See Challenge)	101, 102, 107
Clerk, removal of; substituted clerk; notice.....	95
Compensation; how paid.....	94, 112, 138
Completion of work without adjournment.....	111
Count of votes by.....	109
Election day, duties on.....	107, 108
Examination, appearance for; penalty for failure to appear, or refusal or neglect to qualify.....	94
Exemption from jury and military duty.....	96
Expulsion of, by other three.....	108
Meeting on evening prior to election.....	106
Organization; duties	106
Poll-book, certificate to.....	109
Disposition of	111
Polls, opening and close of.....	107
Powers and duties as peace officers.....	96
Proceedings upon close of polls.....	109, 111
Proclamation of total vote cast.....	109
Removal of	95
Result, abstract of.....	110
Return of registers, ballot-box, etc.....	111
Substituted, on election day; notice.....	96
Vacancy	95
Witnesses and challengers, duties as to.....	107
Residence—(See Residence)	120-122
Return of vote for township and municipal officers, members of boards of education and justices of the peace.....	89, 152
Returns, tally-sheets and poll-books, making, transmission, and preservation of	152
Special election, returns of certain officers voted for at.....	159
Supplies for conducting election, delivery of.....	137
Custody or delivery of, offenses pertaining to; penalty.....	153
Lost or destroyed, replacing of.....	138
Opening of packages.....	138
Term	85, 94
Township officers, conduct and returns of election of.....	21, 89
Turnpikes, conduct and returns of election on question of general tax for; fees	73

JUDGES OF ELECTIONS—Concluded.	PAGE
Vacancy in office, how filled.....	85
Vacancy after printing of ballots, pasters in case of.....	133
Votes cast, certificate and proclamation of.....	151
JUSTICE OF THE PEACE—	
Certificate of election and commission; fee.....	40
Election and term, etc.....	21
New township, number and election of, in.....	21
Notice of election of.....	21
Return and canvass of vote for.....	89
Vacancy in office of, how filled.....	22
LAWS—	
Election, collation, publication and distribution of.....	85
LEGAL HOLIDAY—	
Election day on, certain hours are.....	157
LEGAL RESIDENCE—(See Residence.)	
LIBRARY—(See Public Library.)	
LIQUOR—(See Intoxicating Liquor.)	
LOCAL OPTION—	
Municipal	42-50
Township	41
LOITERING—	
Within seventy-five feet of polls.....	119
Within one hundred feet of polls.....	96
LOT—(See Tie Vote.)	
MACHINE—(See Voting Machine.)	
MARRIED WOMAN—	
Citizen, is deemed, when.....	3
MARSHAL—	
Process, refusing to receive or execute.....	11
MAYOR—(See Municipal Officers.)	
Elections, proclamation as to.....	27-28
Intoxicating liquors, proclamation as to sale of.....	27-28
MEMBER OF CONGRESS—(See Congress.)	
MEMBER OF GENERAL ASSEMBLY—(See General Assembly.)	
Ohio constitution—	
Persons not considered residents of the state.....	15
United States laws—	
Deserters, forfeiture of citizenship by.....	3, 4
Exemption from forfeiture.....	3
Draft, avoiding, forfeiture of citizenship for.....	4
MILITARY SERVICE—	
Officer bringing armed troops to places of election.....	12
Officer interfering with voter, etc.....	4, 13
MUNICIPAL CORPORATIONS—	
Bonds, purposes for which may be issued; tax for redemption; sub- mission of question to voters.....	29-35
Electors, who are.....	28
Infirmity, legal residence of inmates of.....	122
Local option, submission of question of.....	42-50
Loitering near polls prohibited.....	96, 119, 177
Mayor—(See Mayor.)	
Officers, annual election of, etc.....	27, 28, 29
First election	25
Return and canvass of votes for.....	89
Primary elections	173-178
Question, submission of, to voters.....	164
Registration—(See Registration.).....	91-118
Surrender of corporate powers.....	26
Village and hamlet, incorporation of, etc.....	23-25

MUNICIPAL ELECTIONS— (See November and Special Elections.)	PAGE
Board of deputy state supervisors, duties and powers of, as to conduct of	90-118
MUNICIPAL OFFICERS—	
Annual election of, etc.....	27, 28, 29
Return and canvass of votes for.....	89
MUNICIPAL PRECINCTS— (See Precincts.)	
NATIONAL MILITARY HOME—	
Lawful residence of inmates.....	122
NATURALIZATION— (See Citizenship.)	
United States laws relating to.....	4-10
NAVAL SERVICE—	
Deserters, forfeiture of citizenship by.....	3, 4
Exemption from forfeiture.....	3
Draft, forfeiture of citizenship for avoiding.....	4
Officer bringing armed troops to places of election.....	12
Officer interfering with voter, etc.....	4, 13
Persons not considered residents of the state.....	15
NAVY— (See Naval Service.)	
NOMINATION— (See Candidate.)	
Bribery of delegate; penalty.....	169
Candidate, of—	
Certificates and papers—	
Contents of	126
Defect in, manner of correcting.....	133
Device to designate party candidates.....	134
District or circuit, in, decisions of questions as to.....	131
Filing of	88, 129
Forms for	126
Objection to validity	130
Offenses pertaining to; penalty.....	153
Preservation and inspection	130
Transmission of certified copies.....	88, 134
Convention, caucus, primary election, committee, etc., by.....	126
Letter of withdrawal, offenses pertaining to; penalty.....	153
Made, how	126-133
Petition, by	126
Substitution of candidate of other party or nominee by petition.....	127
Substitution of name and marking of ballot when no nomination made or name of nominee omitted.....	147
Vacancy, manner of filling.....	133
Failure of county convention to name committee for filling; county executive committee may act.....	133
NOTICE—	
Board of education, of election of members of.....	60
Bonds for township and municipal purposes, of submission of question of issue of.....	32, 35
Constitutional amendment, publication and charges.....	166
Divided townships, of holding elections in.....	20
Precinct, of proposed change in.....	75
Presidential election, of.....	37
Presidential electors' election, of.....	37
Primary elections, of.....	174
Printing, of letting of contracts for.....	88, 136
Question, of submission of.....	164
State and county elections, of.....	35
Township officers, of election of.....	19, 22
Turnpikes, of submission of question of general tax for; of election of pike superintendent.....	73
Vacancy in office of representative in congress or member of the general assembly, of election to fill.....	36
NOVEMBER ELECTION—	
Expenses of, how defrayed.....	135
Returns of	89, 110, 152

OATH—	PAGE
Challenged person, of.....	101, 122
Clerk of election, of.....	87
Deputy state supervisors of elections and clerks, of.....	87
Power to administer.....	86
Judge of election, of.....	87
Party challenger, of.....	144
Person challenged at, of.....	176
Registration law, of person challenged under.....	101
OFFENSES—(See Crimes and Offenses.)	
OFFICE—	
Ohio laws—	
Convict incompetent to hold.....	168
Forfeiture of, for giving bribe.....	157
Power of general assembly as to eligibility for.....	15
United States laws—	
Deserters or persons avoiding draft incapable of holding.....	3, 4
United States, under, conspiracy to prevent accepting or holding..	12
United States, under, disqualifications for holding.....	13
OFFICER—(See Military Service; Naval Service; Public Officer; Various Officers.)	
OREGON—	
Citizenship of persons born in.....	3
ORGANIZATION—(See Various Officers.)	
Original surveyed townships, of.....	17
ORIGINAL SURVEYED TOWNSHIP—	
Officers, election and term of, etc.....	17, 18
Exception as to election of.....	125
Organization and incorporation of.....	17
PARDON—	
Convict, of, restores rights.....	168
PASTERS—	
Vacancy after printing of ballots, in case of.....	133
PENITENTIARY—	
Eligibility of person who has been imprisoned in.....	168
PERJURY—	
Forfeiture of elective franchise by reason of conviction of.....	15
POLICE—	
Assignment of, on election day.....	110
Duty in cities having registration.....	96
Loitering near polls, duty as to.....	119
Obey and aid judges of election, shall, penalty.....	96
POLL-BOOK—	
Address and delivery in.....	111, 114, 152
Board of education, separate, in election for members of.....	59
Certification of, in registration cities.....	108
Custody or delivery of, offenses pertaining to; penalty.....	153
Delivery and preservation of.....	111, 114, 152
Delivery of, to election officers.....	137
Destroying; penalty.....	172
Disposition of, in cities.....	111, 114
Forged or altered, possession of, with fraudulent intent; penalty.....	173
Form for.....	125
Fraudulent writing on; penalty.....	173
Furnishing of.....	90
Lost or destroyed, replacing of.....	138
Paper to be received as.....	160
Primary election, of.....	175
"Sworn," when word to be entered on.....	124
Transmission and preservation.....	111, 114, 152
POLLS—	
Ohio laws—	
Ballot-boxes, inspection of, before opening of polls.....	107, 119
Interference with voters.....	120

POLLS—Concluded.	PAGE
Loitering near	96, 119
Opening and closing of.....	107, 118
Packages of supplies, breaking of seals of, etc., at opening of polls.	138
Primary elections, time for opening and closing in.....	174
Vacancy in office of judge or clerk at opening of.....	85, 95
United States laws—	
Armed troops to keep peace at.....	12
PRECINCT COMMITTEEMEN—	
Challengers, appointment of.....	107, 144
PRECINCTS—	
Composed, how; where elections to be held.....	75, 76
Division, rearrangement, combination, etc.....	75
Special election, duty of board of deputy state supervisors when ward or precinct changed before.....	114
PRESIDENT—(See Presidential Elections.)	
PRESIDENTIAL ELECTIONS—	
Canvass of returns by secretary of state.....	38
Certificates of election of electors.....	38, 40
Certificates of election of all electors elected.....	40
Contest of electors' election.....	38-40
Electors of president and vice-president to be elected; who eligible....	37
Fees and mileage of electors.....	40
Meeting of electors in Columbus.....	40
Notice of electors' election.....	37, 38
Notice of governor of his presence, each elector to give.....	39
Proclamation of	37
Registration, general, required at.....	100
Tie vote for electors.....	38, 40
Vacancy in office of elector.....	40
PRESIDENT OF THE SENATE—(See General Assembly.)	
PREVIOUS CONDITION—	
Not to affect right to vote.....	4
PRIMARY ELECTIONS—	
Candidate or representative, presence of, during receipt and count of ballots	176
Canvass of result.....	175
Challenges	176
Judges and clerks.....	175
Loitering, soliciting, etc., within 100 feet of polls in municipality....	177
Notice of	174
Offering bribes for voters at; penalty.....	169
Omission of duty and fraudulent voting; penalty.....	169
Penalties	176
Poll-books and tally-sheets.....	175
Polls, time for opening and closing.....	174
Proxy, misdemeanor for delegate to give.....	176
Qualifications to vote at.....	174, 176, 177
Supervisors of	173
Time, place, manner of holding, etc.....	173
PRINTING—(See Notice.)	
Ballot, of, offenses pertaining to; penalty.....	153
Bond of bidder for.....	137
Contracts for	136
Publication of notice of bids for; contracts, etc.....	136
PROCLAMATION—	
Mayor, of, as to elections.....	27
Presidential election, of.....	37
State and county election, of.....	35
Vote cast in certain cities, of; result of count.....	109, 110
Vote cast, of.....	109, 110, 151
PROSECUTING ATTORNEY—	
Election laws, to prosecute for violations of.....	90, 155
PROSECUTION—(See Crimes and Offenses.)	

PROXY—	PAGE
Convention, unlawful in.....	176
PUBLICATION—(See Notice.)	
PUBLIC ELECTIONS—	
Held and conducted, how	77, 125
PUBLIC LIBRARY—	
Submission of question in townships.....	22
PUBLIC OFFICE—	
Nominations of candidates for.....	126
PUBLIC OFFICERS—	
Conduct of elections of.....	77, 125
Violation, neglect, or wrong performance of duty, or disobedience, by; penalty	155
QUALIFICATIONS—(See Various Officers.)	
Ohio laws—	
Challenges—(See Challenge).....	100, 101, 107, 122, 124, 144
Elector, of, under Ohio constitution.....	15
Primary elections, of voters at.....	175, 176, 177
Registration—(See Registration).....	91
Residence—(See Residence)	120-122
United States laws—	
Officer of army or navy not to prescribe.....	4, 13
Race, color or previous condition not to affect right to vote.....	4
QUESTION—	
Ballot, marking of.....	146
Number of votes necessary to authorize performance of act when statute providing for submission of, is silent; submission of, when special election not provided for.....	164
Separate ballot and ballot-box in case of submission of.....	140
RACE —	
Not to affect right to vote.....	4
REGISTRARS—(See Registration.)	
REGISTRATION—(See Deputy State Supervisors.)	
Absent, elector who will be, of.....	99
Absent, elector who is, of.....	99
Challenge of such elector.....	100
Applicable to what cities.....	91
Applicant for—	
Challenge, oath and examination in case of.....	101
Examination of	102
Oath of	101
Signature of; by mark.....	102
Who to be received as.....	101
Ballot-box, location of, on election day.....	108
Board of deputy state supervisors, by order of.....	106, 114
Certificates in case of involuntary mistake in registering.....	110
Certificates in case of removal or mistake.....	101, 104
Certificate of removal when question of issue of bonds submit to voters	35
"Challenged," entry of, on register.....	101, 107
Challengers, designation, rights and privileges.....	107
Cities and villages, council may provide for.....	118
Cities to which provisions applicable.....	91
Close of day's, attestation.....	102
Close of, by clerk of board.....	102
Corrections	106
Council may make provision for.....	118
Crimes and offenses, and penalties therefor—	
Acting as officer of election without appointment, etc.....	118
Ballots, distributing, or having in poll-room.....	117
Counterfeiting resignation certificates, statements, etc.....	117
Destroying or concealing certificates or statements.....	117

REGISTRATION—(See Deputy State Supervisors.)—Continued.		PAGE
Distributing or having ballots in poll-room.....		117
Judge permitting unlawful ballots in box.....		117
Neglect of duty by officers of election.....		117
Neglect to forward notice of substitute judge.....		118
Neglect to qualify, or serve as judge, clerk or registrar.....		95
Perjury before registration officer.....		117
Registration—		
Counterfeiting		117
Falsely registering		116
Inducing same		116
Hindering		116
Permitting or inducing false.....		116
Personating another		116
Procuring unlawful erasure		117
Refusing registration to person qualified.....		116
Wilfully refusing to perform certain duties.....		95
Days for	99,	114
Examination of applicant		102
Expenses of, how paid.....	94,	113
General, required every four years in certain cities.....		100
Hindering electors, soliciting votes, etc.....		97
Hours for	101,	114
Involuntary mistake, certificate in case of.....		110
Lists, alphabetical		105
Bound volumes of, by board.....		105
Duplicates in books for use election day.....		105
Form; comparison of; certificate to; changes in.....		105
Pamphlets containing		105
Posting of		105
Registrars to make and certify.....		105
Loitering within one hundred feet of polls prohibited.....		96
Manner of making; question to be answered.....		102
Meeting of registrars and judges on evening before election; duties..		106
Mistake in, how corrected.....		104
New elector, of, in certain cities.....		100
Oath of, applicant for.....		101
Places of		93
Polls, opening and close of.....		107
“Registers of Electors;” contents; form.....	97,	98
Changes or additions in, for special election.....		113
Comparison and correction of duplicate.....		102
Corrections; noting of changes.....		104
Custody of, when not in use.....		105
Damage or destruction of; penalty.....		97
Entries in		102
Registrars—		
Absent elector, registration of.....		99
Applications for registration, canvass of precincts; report to board, etc.		101
Appointment; term; qualifications, oath.....	94,	96
Certificate of appointment		96
Compensation, how paid	94,	112
Duties, failure to perform; penalty.....		95
Duties, generally—(See Various Items under Registration).....	101, 114,	119
Election day, duties on		107
Examination, appearance for; penalty for failure to appear, or refusal or neglect to qualify.....		95
Exemption from jury and military duty.....		96
Powers and duties as peace officers.....		96
Registers, maps, instructions, etc., to apply for.....		98
Removal		95
Special elections, as to	113,	114
Vacancy		95

REGISTRATION—Concluded.	PAGE
Removal certificate, application for; registrars' duties.....	101, 104
Clerk of board, by	99
Sick or physically disabled, of, by affidavit.....	103, 114
Special election, in	113
Changes or additions in registers.....	114
Days for	113
Hours for	114
New ward or precinct	114
Orders for, by board of deputy state supervisors of elections.....	114
Sick or disabled	114
Voters required to register in cities.....	91, 103
Who shall be registered	103
Witness, designation, rights and privileges.....	107
Women, registration of	60
REMOVAL—(See Various Officers.)	
Deputy state supervisors of elections, of.....	79
REPRESENTATIVE—(See Congress; General Assembly.)	
REPRESENTATIVE DISTRICT—(See District.)	
RESIDENCE—	
Head of family	120
Infirmaries inmates	122
Questions to be heard and determined by judges.....	121
Registration required in cities	91, 103
Residents of this state, persons not considered.....	15
Rules to govern judges in determining.....	121
Soldiers' home inmates	122
Time of, required	120, 121
Voting, illegal; penalties	167, 170
Voting purposes, for	119, 122
RESIDENCE—(See Residence.)	
RETURNS OF ELECTIONS—	
Adjustment of discrepancies	111
Board of education, return of vote for members of.....	59
Deputy state supervisors of elections, opening and canvass of, by.....	89, 158, 163
Forged or altered poll-books or tally-sheets, possession of, with fraudulent intent; penalty	173
Fraudulent writing on; penalty	172
Justices of the peace	89
Making, transmission and preservation.....	114, 152
Municipal officers	27, 89, 114
November election	89, 114, 152
School land, on sale of.....	18
Special election, returns of certain officers voted for at.....	159
Township officers	21, 89
Turnpikes, on question of general tax for.....	73
Validity of, deputy state supervisors not to decide on.....	160
RIGHT OF SUFFRAGE—	
Ohio law—	
Convict, as to rights and competency of; penalty.....	168, 170
Exclusion from, for receiving bribe.....	157
General assembly, power of, as to forfeiture of.....	15
Idiot or insane person, excluded from.....	15
Ohio constitution, under.....	15
Women, right of.....	60
United States laws—	
Crimes against elective franchise.....	10-13
Interference with, by army or naval officer.....	1, 13
Race, color, or previous condition not to affect.....	4
SAILOR—(See Naval Service.)	
SALARY—(See Fees.)	
SCHOOL DIRECTORS—	
Subdistricts, election in, etc.....	65
Supervision of election, exception as to.....	65
Women, rights of.....	60

SCHOOL ELECTIONS—

PAGE

Ballot for election of member of board of education; how to be printed; marking of.....	59
Centralization, submission of question of.....	66
City districts	60-63
High school purposes, union of districts for.....	71
School directors, exception as to election of.....	75
Schoolhouse, as to levy of tax and issue of bonds for.....	71
Schools, submission of question of additional levy for.....	72
Special districts	67-70
Township districts	64-65
Village districts	63
Women, rights of, in.....	60

SCHOOLHOUSE—

Submission of question of tax and bonds for.....	72
--	----

SCHOOL LANDS—

Vote on sale of; deposit of returns.....	18, 19
--	--------

SECONDARY STUB—(See Ballot.)**SECRETARY OF STATE—**

Abstracts in elections to fill vacancy in office of member of congress..	162
Abstracts of election, copies of, to be forwarded to.....	160, 166
Ballot, form of.....	139, 141
Canvass of returns for presidential electors.....	38
Certificates of elections and commissions; fee.....	40
Certificates of nomination and nomination papers—	
Defect in, manner of correcting.....	133
Filing of	88, 129
Printing of name of candidate on ballot when two or more certificates for same office filed.....	127
Objections to validity of.....	131
Transmission of certified copies.....	88, 134
Contest for presidential electors' election, as to.....	38
Deputy state supervisors of elections, appointment, qualification, terms and removal of.....	77-87
Duties, general	88, 77
Election laws, collation, publication and distribution of.....	85
Forms for guidance of deputy state supervisors of elections.....	125
Prosecution for violation of election laws.....	88, 155
Questions to be decided by.....	88, 131
State supervisor of elections, ex-officio, is; duties.....	77
State supervisor and inspector of elections, ex-officio is; duties.....	77
Tie vote for presidential electors.....	38
Vacancy on ticket, manner of filing.....	133

SECTION SIXTEEN—

Submission of question as to sale of; returns.....	18, 19
--	--------

SENATE—(See General Assembly.)**SENATOR—(See General Assembly.)****SENATORIAL DISTRICT—(See District.)****SHERIFF—**

Loitering near polls, duty as to.....	96, 119
Obey and aid judges of election, shall; penalty.....	96
Presidential election, proclamation of.....	37
State and county elections, proclamation of.....	35
Vacancy in office of representative in congress or member of general assembly, notice of special election to fill.....	36

SOLDIERS—(See Military Service.)

Inmates of soldiers' home, lawful residence of.....	122
---	-----

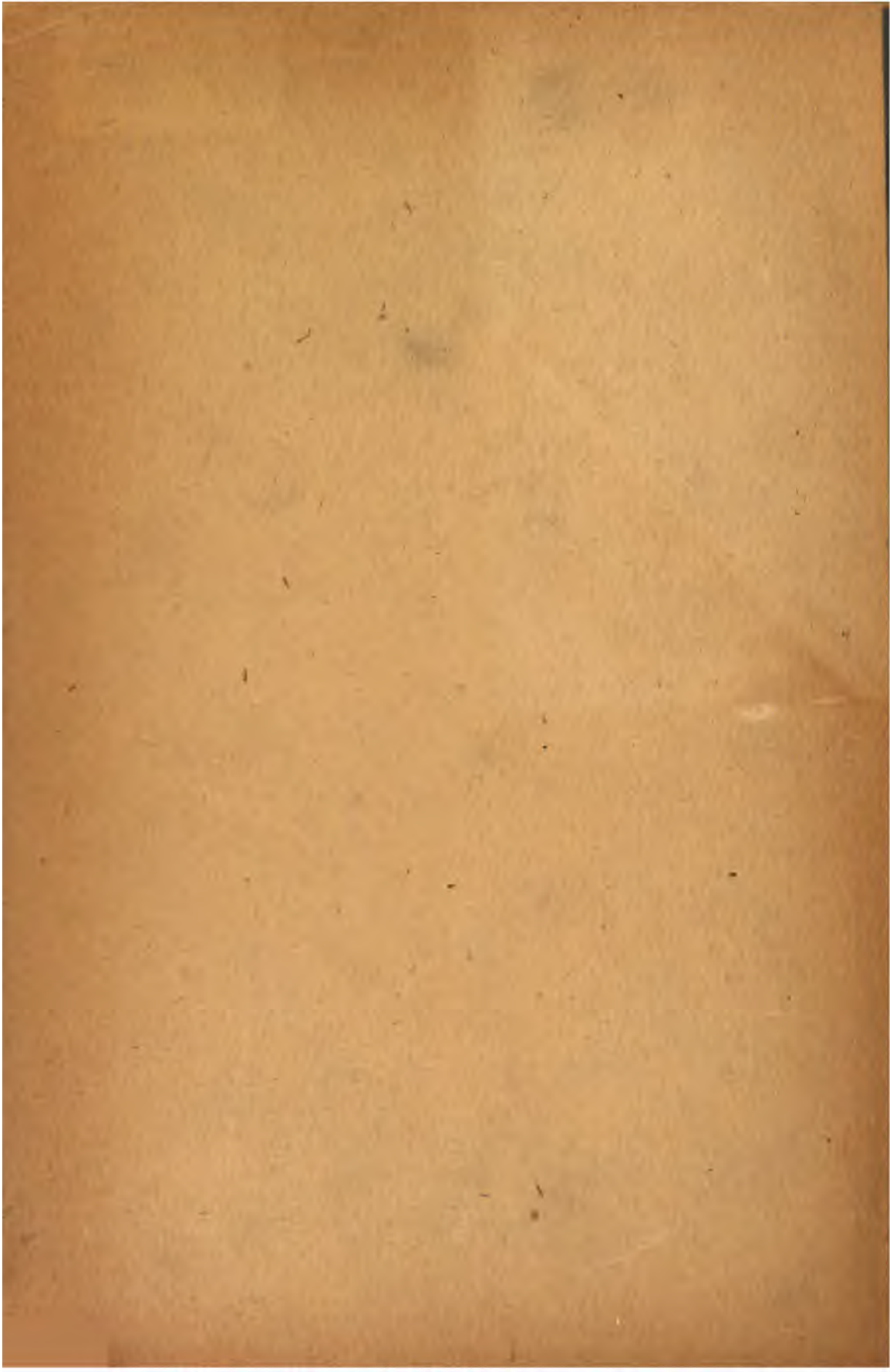
SOLDIERS' HOME—(See National Military Home.)**SPECIAL ELECTIONS—**

Expenses of, how defrayed.....	135
Local option, municipal; special election on question of.....	42-50
Local option, township, special election on question of.....	41
Notice for proposals for printing for.....	136
Question, submission of, when special election not provided for.....	164

SPECIAL ELECTIONS—Concluded.	PAGE
Registration laws, provisions of, applicable to.....	113, 114
Returns, abstracts and certificates of election of certain officers elected at	159
Vacancy in office of representative in congress or member of general assembly, to fill.....	36
STATE ELECTIONS—	
Proclamation and time of.....	35
STATE OFFICERS—	
Certificate of election and commission; fee.....	40
Election of, proclamation and time of.....	35
STATE SUPERVISOR OF ELECTIONS—(See Secretary of State.)	
Secretary of State, ex-officio, is; duties.....	77
STATE SUPERVISOR AND INSPECTOR OF ELECTIONS—(See Secretary of State.)	
STUB—(See Ballot.)	
SUFFRAGE—(See Right of Suffrage.)	
SURRENDER OF CORPORATE POWERS—	
Municipal corporations, by; proceedings.....	26
TALLY-SHEET—	
Copies, making, transmission and preservation of.....	152
Delivery of, to election officers.....	137
Forged or altered, possession of, with fraudulent intent; penalty....	173
Form for	125
Fraudulent writing on; penalty.....	172
Furnishing of	90, 120
Lost or destroyed, replacing of.....	138
Primary elections, of.....	175
TAXATION—	
Bonds for township and municipal purposes, for redemption of, submission of question to voters.....	32-35
Elections, levy for expenses of.....	83, 135
Schoolhouse, submission of question of levy of tax for.....	71
Turnpikes, submission of question of general tax for.....	73
TERM OF OFFICE—(See Various Officers.)	
THREATS—	
Intimidating voters by.....	10
TIE VOTE—	
County officers, for.....	36
General assembly, for members of.....	36
Municipal officers; for.....	28
Presidential electors, for.....	39
Township officers, for.....	20
TOWN HALL—	
Purchase, question of, to be submitted to vote; levy for.....	19
Township trustees may purchase site and erect.....	19
TOWNSHIP—(See Township Trustees.)	
Local option	41
Original surveyed—	
Officers, election and terms of.....	17, 18
Exceptions as to election of officers.....	125
Organized, when, may be.....	17
Question, submission of, to voters.....	164
TOWNSHIP CLERK—(See Township Officers.)	
Ballot-boxes, duty as to.....	90
Booths, guard-rails, etc., duty as to.....	143
Canvass of vote for township officers.....	89
Election and term.....	20
Local option election, record of.....	41
TOWNSHIP DITCH SUPERVISOR—	
Election and term of.....	21
TOWNSHIP ELECTIONS—	
Held, where and how; returns of.....	21, 89

TOWNSHIP OFFICERS—(See Township Clerk; Township Trustees.)	PAGE
Elections for, when and how held; returns of.....	19, 21, 89
Return and canvass of votes for.....	89
TOWNSHIP PRECINCT—(See Precincts.)	
TOWNSHIP TREASURER—(See Township Officers.)	
Election; term, etc.....	20
TOWNSHIP TRUSTEES—(See Township Officers.)	
Bonds, purposes for which may issue; tax for redemption; submission of question to voters.....	32-35
Divided townships, notice of holding elections in.....	20
Elections, levy for expenses of.....	135
Election; term, etc.....	20
Hearse, to submit question of purchase of.....	22
Local option.....	41
Notice of annual election of.....	20
Order of elections, to preserve.....	20
Original surveyed township, first election in.....	17
Places of holding elections, to determine.....	19, 20
Public library, to submit question of.....	22
Section sixteen, duties as to sale of.....	18, 19
Town hall, may purchase or lease site and erect.....	19
TROOPS—	
Bringing armed, to place of election.....	12, 13
TRUSTEES—(See Township Trustees.)	
Hamlet, of—(See Municipal Corporations.)	
Bonds, purposes for which may issue; tax for redemption; submission of question to voters.....	32-35
TURNPIKES—	
Questions of general tax for, to be submitted to electors.....	73
UNITED STATES—(See Citizenship.)	
UNITED STATES MARSHAL—(See Marshal.)	
VACANCY—(See Various Officers.)	
Ballot, after printing of, how filled.....	133
Board of education, in.....	70
Clerk of election, in office of.....	85
Congress, in office of representative in; how filled.....	36
Abstracts in such case.....	162
Deputy state supervisors of elections, in board of, how filled.....	78, 79
General assembly, in office of member of.....	36
Judge of election, in office of.....	85
Presidential elector, in office of.....	40
Ticket, on, when committee may fill.....	128, 134
Manner of filling.....	133
Substitution of candidate of other party, or nominee by petition.....	128
Substitution of name and marking of ballot when no nomination is made or name of nominee omitted.....	148
VICE-PRESIDENT. (See Presidential Elections.)	
VILLAGE—(See Municipal Corporations.)	
VOICE—(See Ballot; Canvass; Challenge; Right of Suffrage; Tie Vote.)	
Number necessary to authorize performance of act when statute providing for submission of question is silent.....	164
Person may absent himself from employment to.....	156
Who may.....	15
VOTER—(See Citizenship; Elector.)	
VOTING—(See Ballot; Crimes and Offenses.)	
VOTING MACHINES—	
Commission to examine.....	180
Purchase and use of, in elections.....	179-184
VOTING SHELVES—(See Booths and Guard-Rails.)	
WARD PRECINCTS—(See Precincts.)	
WITNESS—(See Inspector.)	
Competent, in prosecutions for bribery, intimidation, or impeding or preventing free exercise of elective franchise.....	157
Registration in cities having.....	107
WOMAN—(See Married Woman.)	
School elections, rights in.....	60





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